

**THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE**

IN RE:)	
)	
SENTINEL COMPANY)	NO. 4781
)	
)	

**COMMISSIONER-IN-POSSESSION'S AND SENTINEL TRUST RECEIVER'S
MOTION TO STRIKE OR TO OVERRULE EXPANDED OBJECTIONS
OF DANNY N. BATES, ET AL**

I. INTRODUCTION

The Commissioner-in-Possession of Sentinel Trust Company ("Commissioner") and the Sentinel Trust Receiver ("Receiver") move the Court to strike or overrule what Danny N. Bates, et al¹ ("Bates") filed on March 14, 2005 as "Expanded Objections." As set forth more fully herein, Bates' "Expanded Objections" constitute an abuse of the Court order which allowed for written objections to be filed after-the-fact, is a blatant attempt to expand the limited nature of what the Court has ordered as the scope of a June 9, 2005 evidentiary hearing and interim discovery² and is a vain attempt to secure a *de facto* stay of the Sentinel receivership proceedings.

II. FACTUAL BACKGROUND

On February 28, 2005, the Court ordered that an evidentiary hearing would be set for June 9, 2005 to address the objections filed, on February 25, 2005, by Bates to three motions

¹ "Danny N. Bates, et al" filed the Expanded Objections, which apparently include Clifton T. Bates, Howard H. Cochran and Gary L. O'Brien.

² As the Court is aware, the Commissioner and Receiver filed, on March 14, 2005, a Motion to Alter or Amend and/or Reconsider the Court's order which sets that evidentiary hearing and which allows interim discovery.

filed by the Receiver which sought permission to disburse funds from three defaulted bond issue recovery efforts -- the Fort Pierce, Florida defaulted bond issue ("Fort Pierce"), the Hernando County, Florida defaulted bond issue ("Hernando") and the Tarrant County, Texas defaulted bond issue ("Tarrant"). At the February 28, 2005 hearing, Bates' counsel also verbally objected to the Receiver's Motion for Approval of Receiver's, Outside Counsel's and Third Party Contractors' Fees ("Fee Approval Motion"). With regard to the verbal objection as to the Fee Approval Motion, the Court ordered:

2. Respondents [Bates] will have two weeks to file with the Court, and serve counsel with, the written form of the objections lodged orally at the February 28, 2005 hearing concerning Receiver's Motion for Approval of Receiver's, Outside Counsel and Third Party Contractors' [F]ees.

Exhibit 1 -- Court Order signed on March 14, 2005 and entered on March 18, 2005 ("March 14th Order") at p. 2 (brackets added). Pursuant to that same March 14th Order, the late-filed objection would be an objection addressed at the June 9, 2005 hearing and upon which interim discovery could be conducted. Id.

The verbal objection Bates lodged at the February 28, 2005 hearing concerning the Fee Approval Motion is as follows:

MR. MATHERNE: Oh, Your Honor, there was one other motion that I was moving on and that's the motion for fees. There was not an objection lodged with that motion, or that I'm aware of.

MR. SCHWENDIMANN: We would ask that that be deferred, Your Honor, until the Court has had an opportunity to hear all of this.

JUDGE HARRIS: Okay.

MR. SCHWENDIMANN: Because again our contention is that they're taking monies from trust accounts.

MR. MATHERNE: Your Honor, that is so paper thin.

JUDGE HARRIS: Well, it won't hurt to hear it all together.

MR. MATHERNE: These are fees that are being expended that have already in relation to matters that have been done for a long time. And it's needed to keep going in regards to payment --

JUDGE HARRIS: Well, if he's objecting to it, I'm going to set it for hearing with the other.

MR. MATHERNE: All right, sir.

February 28, 2005 Hearing Transcript (attached as **Exhibit 2**) at pp. 22-23 (emphasis added). At the end of the February 28, 2005 hearing, the Court allowed Bates two weeks to file, in written form, the verbal objection. Id. at pp. 34-35.

Two weeks later, on March 14, 2005, Bates filed his "Expanded Objections." A copy of that filing is attached as **Exhibit 3**. Those "Expanded Objections" bear little, if any, resemblance to the verbal objection made to the Fee Approval Motion on February 28, 2005. Indeed, and in direct disregard to the Court's statements on February 28, 2005 and the Court's March 14th Order, which expressly limited the late-filed objections to only the verbal objection stated on the record vis-à-vis the Fee Approval Motion, Bates brazenly states that he is filing the "Expanded Objections" to make objection "to all motions of the Receiver still pending." **Exhibit 3** at p. 1 (Introduction paragraph).

Bates' "Expanded Objections" go beyond 1) what was set forth as the verbal objection to the Fee Approval Motion and 2) what was stated in Bates' February 25, 2005 objections to the Receiver's Fort Pierce, Hernando and Tarrant motions. Those are the objections for which the Court has allowed a June 9, 2005 hearing and interim discovery. Therefore, Bates is blatantly attempting to expand³ the scope of the June 9, 2005 hearing and the scope of the interim discovery, both of which are to be limited to the above-referenced objections. This abusive

³ The very fact that Bates entitles his filing as "Expanded Objections" indicates that he is consciously taking the opportunity to test whether he can go beyond what he knows he is limited to by Order of the Court.

“expansion” by Bates was warned against by the Receiver’s counsel at the February 28, 2005 hearing:

MR. MATHERNE: . . . Your Honor, I mean we’re going to follow this Court’s instructions with regards to the nature of the Discovery and the hearing that it wants to set. But to the extent that -- I give only due deference to the imagination of Mr. Bates and his counsel as to what that will entail.

And we’ll be embroiled and spinning out into Discovery and side litigation that is not in the best interests of the claimants of this estate. It is not in the best interests of the bondholders that need to be paid. It is not in the best interests of shortening up the eleven million dollar shortfall in a pooled fiduciary account that the Bates saw happen.

Exhibit 2 at p. 25.

III. ARGUMENT

1) “Expanded Objections” Should Be Stricken

The objections set forth in the “Expanded Objections” should be stricken for numerous reasons. First, numerous of the objections are beyond (and are an abuse of) the Court’s March 14th Order allowing an evidentiary hearing and interim discovery on “objections.” Second, numerous of the “Expanded Objections” address issues that have already been decided by the Davidson County Chancery Court in the action Sentinel Trust Company v. Lavender, #04-1934-I (Davidson County, Tennessee Chancery Court). Third, numerous of the “Expanded Objections” address issues which Bates has taken on appeal from two Rule 54.02 final orders previously entered in this action. Finally, through this effort of expansive objections, Bates is attempting to create a *de facto* stay of the receivership proceedings when he consciously chose not to do so pursuant to Rule 62 Tenn.R.Civ.P.

a) Bates’ “Expanded Objections” are Abusive of the Court’s March 14th Order Allowing for Late-Filed Objections

The Court’s March 14th Order (**Exhibit 1**), which allows Bates the ability to late-file objections, specifically limits the late-filed objections to “the objections lodged orally at the

February 28, 2005 hearing concerning Receiver's [Fee Approval Motion]." **Exhibit 1** at p. 2. The only objection made orally to the Receiver's Fee Approval Motion was Bates' objection that the fees were being paid with trust assets. **Exhibit 2** at pp. 22-23. This "payment of fees from trust or fiduciary assets" objection is set forth in Bates' Expanded Objection #4. See Exhibit 3 at p. 6. Therefore, all other objections contained in Bates' "Expanded Objections" are simply an abusive effort by Bates i) to interject matters contrary to the Court's March 14th Order and ii) to attempt to broaden the scope of the June 9, 2005 hearing and the interim discovery. Accordingly, all of the "Expanded Objections," except Expanded Objection #4, should be stricken.

b) **Bates' "Expanded Objections" Bear No Relation to Bates' February 25, 2005 Objections to the Fort Pierce, Hernando and Tarrant Motions**

The Court's March 14th Order allows a June 9, 2005 evidentiary hearing "concerning the objections of [Bates] to the Receiver's motions as noted herein." **Exhibit 1** at p. 2. The phrase "as noted herein" necessarily refers to the earlier reference in the Court's March 14th Order to 1) the oral objection to the Fee Approval Motion and 2) the written objections, filed by Bates on February 25, 2005, to the Receiver's motions relating to disbursements on the Fort Pierce, Hernando and Tarrant defaulted bonds. Attached as **Exhibit 4** is a copy of the February 25, 2005 written objections filed by Bates. As has been examined at length in the Commissioner's and Receiver's Motion to Alter or Amend and/or Reconsider (filed on March 14, 2005), Bates' February 25th filing set forth two objections: 1) Bates objected to the pre- May 18, 2004 Sentinel fees, which had been accrued or assessed against the Fort Pierce, Hernando and Tarrant defaults, being paid to Sentinel/Sentinel receivership because Bates maintains that those accrued fees are fiduciary assets and 2) Bates objected to the post- May 18, 2004 interest expense fees being paid

to Sentinel/Sentinel receivership because Bates maintains that those fees are also fiduciary assets.

None of Bates' "Expanded Objections" touch upon the two objections stated in Bates' February 25, 2005 filing. Therefore, none of the "Expanded Objections" can be justified or excused by virtue of their being reiterations of the February 25, 2005 written objections. Accordingly, on that basis as well, all of the "Expanded Objections," except Expanded Objection #4, should be stricken.

c) **Bates' "Expanded Objections" Attempt to Reopen Matters Already Ruled Upon in Different Courts**

Various of Bates "Expanded Objections," particularly Expanded Objections #1 and #3 (see **Exhibit 3**), address 1) the power, authority and jurisdiction of the Commissioner and his appointed Receiver to take possession of and liquidate Sentinel and 2) the constitutionality of the statutes under which the possession and liquidation of Sentinel has taken place, as well as the constitutionality of the actions of the Commissioner in taking possession and liquidating Sentinel. Those exact issues have already been ruled upon by the Davidson County Chancery Court in the pending action Sentinel Trust Company v. Lavender, #04-1934-I (Chancery Court for Davidson County, Tennessee). An August 9, 2004 Memorandum and Order (copy attached as **Exhibit 5**) entered by Judge Walter Kurtz (sitting by interchange), held that the Commissioner acted with express statutory authority in taking possession of Sentinel pursuant to T.C.A. § 45-2-1502 and further held that the acts of the Commissioner and the statute under which he

had acted (T.C.A. § 45-2-1501 et seq.) were constitutional.⁴ Thereafter, on September 16, 2004, Bates filed an action in federal court in the Middle District of Tennessee -- Sentinel Trust v. Lavender, #3:04-0836 (M.D. Tenn., Echols). In that case, Bates raised the same issues contesting the power, authority and jurisdiction of the Commissioner and the constitutionality of both the Commissioner's actions and of T.C.A. § 45-2-15-1 et seq. In an order which dismissed Bates' federal action, Judge Echols dismissed the action on abstention grounds, but specifically found that Bates, after having had the Davidson County Chancery Court rule on the authority/constitutionality issues, was collaterally estopped from pursuing those matters further. See Exhibit 8, December 13, 2004 Memorandum of Judge Echols in Sentinel Trust v. Lavender, #3:04-0836 at pp. 24-25.

Accordingly, the issues raised by Bates' Expanded Objections #1 and #3 are matters that have already been ruled upon in the venue proper for those determinations -- the Davidson County Chancery Court.⁵ Bates' attempt to expand the scope of the limited discovery and the June 9th hearing by expanding his objections to include authority, jurisdiction and constitutional challenges, as well as challenges to the appropriateness of taking possession and liquidating Sentinel, should not be allowed. All of those issues have previously been ruled upon in a case initiated by Bates -- the Davidson County Chancery Court proceedings,⁶ and that ruling has been

⁴ On August 13, 2004, Bates moved for reconsideration and/or permission to seek an interlocutory appeal of Judge Kurtz's August 9th ruling. On August 23, 2004, Judge Kurtz denied the motion to reconsider, but he gave permission to seek an appeal on the issues he had ruled upon. See Exhibit 6 -- copy of Judge Kurtz's August 23, 2004 Order. The Court of Appeals, however, refused to accept the interlocutory appeal. See Exhibit 7 -- Court of Appeals September 1, 2004 Order.

⁵ Davidson County Chancery Court is the proper venue in which to bring a petition for certiorari to challenge the actions of the Commissioner in taking possession of Sentinel. See T.C.A. § 45-2-1502(c)(1) and T.C.A. § 27-9-101 et seq.

⁶ By recent order of Judge Kurtz, entered on March 16, 2005 (Exhibit 9), a final hearing on whether the Commissioner exceeded his jurisdiction by acting illegally, arbitrarily or capriciously in taking possession of Sentinel and finding it insolvent is scheduled for Tuesday, March 29, 2005 in Nashville.

given collateral estoppel effect by the United States District Court for the Middle District of Tennessee. Bates' attempt to interject those issues into the June 9th hearing, through his "Expanded Objections," is simply an attempt to obtain from this Court a finding inconsistent with the rulings of Judge Kurtz and the rulings of Judge Echols. Accordingly, Expanded Objections #1 and #3 should be stricken.

d) **Bates' "Expanded Objections" Include Matters Already Decided in This Receivership Action and/or Which are on Appeal**

Various of Bates' "Expanded Objections," particularly Expanded Objections #2 and #3 object that 1) the Commissioner and Receiver should not use fiduciary assets to operate Sentinel during the receivership and 2) the Commissioner can seek the Court's approval of matters only on a limited number of circumstances set forth in T.C.A. § 45-2-1502 and 1504.

To repeat what has been presented to the Court in the Commissioner's and Receiver's Motion to Alter or Amend and/or Reconsider (filed on March 14, 2005), the Receiver has not used and will not, absent further order of this Court, use fiduciary assets to operate the Sentinel receivership. That issue was decided by this Court in its July 19, 2004 order. See Exhibit 10. Bates' lodging of his Expanded Objection #2 is nothing more than an attempt to readdress the Court's July 19th Order and to object to something that is not happening in the first place. Accordingly, Expanded Objection #2 should be stricken.

Bates' Expanded Objection #3, aside from raising constitutional issues already decided by Judge Kurtz, also objects that the Court is not empowered to approve anything other than what Bates sets forth as limited situations contained in T.C.A. § 45-2-1501 et seq. In essence, Bates contends that this Court cannot approve the distribution concerning the Fort Pierce, Hernando and Tarrant defaults nor can it approve the fee payments to the Receiver and counsel.

Aside from Bates simply being incorrect in his analysis,⁷ it is important to note that this objection has already been raised and dispensed with by this Court. Back in November 2004, the Commissioner and the Receiver moved the Court to approve transfer of fiduciary/trustee positions to successor fiduciaries. Bates objected to that transfer and, in so objecting, admitted that, from his perspective, what was being transferred were assets of Sentinel Trust Company. That admission notwithstanding, Bates maintained that the Court was not empowered to “approve” the transfer of fiduciary positions to successor fiduciaries because, according to Bates, such empowerment was not set forth in T.C.A. § 45-2-1501 et seq. The Commissioner and Receiver argued that the Court had the general power to address any matter properly brought before it, that T.C.A. § 45-2-1504(c) instructed the Commissioner to transfer Sentinel’s fiduciary positions to a successor fiduciary, and that, particularly in light of Bates’ assertion that those fiduciary positions were Sentinel assets, T.C.A. 45-2-1504(a) required Court approval before the fiduciary positions could be transferred. This Court considered those arguments and, through orders entered on November 15, 2004 and December 1, 2004, approved the transfer of the Sentinel fiduciary/trustee positions on the non-defaulted bond issues to four different successor fiduciaries. See Court Orders (without lengthy exhibits) attached as **Exhibits 11 and 12**.

This Court certified as final, under Rule 54.02 Tenn.R.Civ.P., the orders that addressed the transfer of the Sentinel fiduciary positions, and Bates has appealed. See **Exhibit 13** -- Bates Notice of Appeal. The exact issue that Bates sets forth in Expanded Objection #3 -- i.e., what this Court is or is not “empowered” to approve under T.C.A. § 45-2-1501 et seq. -- is now on

⁷ As examined later in this Motion, T.C.A. § 45-2-1504(a)(3) specifically requires Court approval of payments of claims prior to the time at which the Commissioner is to submit a schedule of claims. The disbursement of Fort Pierce, Hernando and Tarrant funds is a payment of claims to those holding claims to those proceeds, including bondholders. The payment of the Receiver’s and counsel’s fees are likewise payments of claims from the receivership estate.

appeal, but Bates has not pursued, much less gained, any stay of proceedings under Rule 62 Tenn.R.Civ.P. Thus, Bates' attempt to expand his objections to include this issue for hearing on June 9th is an effort to gain a ruling inconsistent with the Court's previous rulings and should not be allowed. Therefore, Expanded Objection #3 should be stricken.

e) **Bates' "Expanded Objections" Should Not Be Allowed to Create a De Facto Stay of the Receivership Proceedings**

As just alluded to, it is important to recognize that what Bates is doing by "expanding" his objections is attempting to effect a practical stay of the receivership proceedings even though he chose not to pursue such under Rule 62 Tenn.R.Civ.P. when he appealed the Court's Rule 54.02 final⁸ orders. The objections he made prior to filing the "Expanded Objections" (both verbally at the February 28, 2005 hearing and in Bates' February 25th filing) were limited, and, as noted in the Commissioner's and Receiver's Motion to Alter or Amend and/or Reconsider, can be addressed without the need to conduct discovery or wait for the June 9th hearing. Through interjecting the "Expanded Objections," Bates is attempting to resurrect every issue he and his lawyers can think of so as to be able to conduct discovery on those matters and include those matters in the June 9th hearing. This was warned against by Receiver's counsel at the February 28, 2005 hearing. See Exhibit 2 at p. 25. If the "Expanded Objections" are allowed, every aspect of the receivership, regardless of whether those matters have been previously ruled upon, will be set for hearing on June 9, 2005. As a consequence, the Receiver would be significantly limited in, if not halted from, going forward with the business of liquidating Sentinel Trust -- this being with no stay of proceedings in place. Thus, Bates would have achieved the goal of staying the receivership proceedings without having to pursue a stay

⁸ The Rule 54.02 orders (**Exhibits 11 and 12**) relate only to the transfer of fiduciary positions to successor fiduciaries. They do not relate to other matters which must go forward (and, without a stay of proceedings, should go forward) regarding the liquidation of Sentinel and the addressing of the Sentinel claimants.

or, significantly, without posting a bond. For this reason also, the “Expanded Objections,” other than Expanded Objection #4, should be stricken.

2) “Expanded Objections” Should be Overruled

In addition, and in most instances for the same reasons for which they should be stricken, the “Expanded Objections” should be overruled.

Expanded Objection #1 only sets forth matters that have been previously decided by Judge Kurtz (e.g., authority of the Commissioner, constitutionality of T.C.A. § 45-2-1501 et seq., etc.). It should be overruled for that reason and because it is outside of (and abusive of) this Court’s March 14th Order allowing late-filed objections. Expanded Objection #1 also should be overruled because it is a blatant attempt to effect a stay of proceedings in the receivership action without having followed the procedures under Rule 62 Tenn.R.Civ.P., including moving for a stay and posting a bond.⁹

Expanded Objection #2 maintains that the Commissioner and Receiver should not be able to use fiduciary assets to pay for the expenses of the Sentinel receivership. This objection should be overruled because the issue has already been addressed by this Court’s previous July 19, 2004 Order (**Exhibit 10**). Such an objection might be appropriate if the Receiver was moving for permission to use fiduciary assets to address receivership expenses, but there is no such motion pending. To the extent that Bates maintains, through Expanded Objection #2, that fiduciary assets should not be used to pay receivership expenses, this Expanded Objection should be

⁹ Again referencing the Expanded Objections reveals what the Commissioner and Receiver see as a primary objective of Bates in making his “Expanded Objections.” In the “Expanded Objections” filing, Bates requests that this Court exercise its “discretionary power to withhold ruling by retaining all motions under advisement pending appellate court action.” **Exhibit 2** at p. 3. Bates wants a stay of the receivership proceedings. He has not pursued a stay in the proper fashion of moving for such under Rule 62 and, if successful, posting a bond. Rather, he tries an “end-run” around Rule 62 by filing the Expanded Objections. Such gamesmanship should be recognized for what it is and should not be allowed.

overruled as being duplicative of Expanded Objection #4. Moreover, Expanded Objection #2 should be overruled because it objects to something that has not occurred -- the Receiver has not used what it considered or knew to be fiduciary assets to pay Sentinel receivership expenses. See Commissioner's and Receiver's Motion to Alter or Amend and/or Reconsider (filed on March 14, 2005) at pp. 23-25.

Expanded Objection #3 raises the position that the Court is not empowered to give its approval to matters transpiring in the Sentinel receivership, except in what Bates characterizes as limited situations. This Expanded Objection also raises constitutional due process/law of the land concerns (see Expanded Objection #3(f) at p. 5). The portion of this objection which addresses constitutional issues should be overruled because the constitutional issues have already been decided through orders of Judge Kurtz and Judge Echols. The remainder of Expanded Objection #3 should be overruled as an attempt to obtain an inconsistent ruling on matters that this Court has decided and/or which are on appeal -- an appeal to which Bates chose not to pursue a stay of proceedings. Moreover, it is clear, as a matter of law, that approval of this Court as to the distribution/payment of proceeds from the Fort Pierce, Hernando and Tarrant defaulted bonds is needed under T.C.A. § 45-2-1504(a) -- the distribution addressing the payment (prior to the filing of the Commissioner's determination of claims) of claims to those defaulted bond proceeds for 1) Sentinel fees, 2) amounts owed to the Pooled Fiduciary Account and 3) claims from bondholders. Likewise, the pending Fee Approval Motion (which seeks payment of a claim of receivership expenses under T.C.A. § 45-2-1502(f)) is a matter that would require Court approval under T.C.A. § 45-2-1504(a). Accordingly, Expanded Objection #3 should be overruled.

Expanded Objection #4 states that payments of receivership expenses should not be made from funds held in trust or from fiduciary assets. This objection is the only one of Bates' "Expanded Objections" that complies with the Court's March 14th Order (**Exhibit 1**) which allowed a late-filed written objection of the oral objection lodged at the hearing on February 28, 2005 as to the Fee Approval Motion. To that extent, the Commissioner and Receiver incorporate the position set forth in their Motion to Alter or Amend and/or Reconsider (filed on March 14, 2005) as to why that objection does not warrant discovery or a June 9th hearing and should be overruled -- see Motion to Alter or Amend and/or Reconsider at pp. 23-25.

Expanded Objection #5 is the last of Bates' "Expanded Objections." It objects to the amount of fees, set forth in the Fee Approval Motion, being sought by Receiver's counsel, Wyatt, Tarrant & Combs, LLP ("WTC"), and it further objects to the payment of the fees requested by the firm of Waller, Lansden, Dortch & Davis and by James A. Skinner based upon an assertion of a conflict of interest. Because this objection is beyond what the Court allowed in its March 14th Order, it should be overruled. In addition, there are numerous other reasons why this objection should be overruled. First, as to the contention that Waller, Lansden and Mr. Skinner have a conflict of interest, Bates maintains that, because Waller, Lansden and Mr. Skinner worked for Sentinel Trust prior to the receivership, it would be a conflict of interest for them to continue to work for Sentinel Trust after the institution of the receivership. Simply put, a conflict of interest does not exist because Waller, Lansden and Mr. Skinner still have the same client -- Sentinel Trust. Under T.C.A. § 45-2-1502(b)(2), when the Commissioner took possession of Sentinel, he became vested with full and exclusive power of management of Sentinel. He and his appointed Receiver step into the shoes and otherwise become Sentinel Trust Company. In providing the services giving rise to the fees for which approval is being sought,

the Waller, Lansden firm and Mr. Skinner have been working for Sentinel Trust Company, albeit Sentinel Trust Company, in Liquidation. Accordingly, no conflict exists because Waller, Lansden and Mr. Skinner are working for the same entity that they were prior to May 18, 2004 -- Sentinel Trust.¹⁰ Bates' objection on that point does not justify discovery or an evidentiary hearing and should be overruled. Also, it should be noted that previous fee approval motions filed by the Receiver (see **Collective Exhibit 14** -- December 7, 2004 and January 14, 2005 fee approval motions) have set forth fees for Waller, Lansden and for Mr. Skinner, and Bates did not object to those fee approval motions. It is only in the context of an "Expanded Objection," at a time when Bates perceives the opportunity to accomplish unrelated and improper matters (such as securing a *de facto* stay of the receivership proceedings), that one sees the objection.

Bates objects to the amount of WTC fees and states that it would be improbable that WTC could have billed 158 hours in December 2004. Bates is further dismissive of the amount of time that WTC spent on the Sentinel matter in December by contending that the transfer of the fiduciary positions had already occurred and that, because of the holidays, Bates was sure that the WTC lawyers would not be working as much. See Expanded Objections at p. 6. Bates is incorrect on all of what he contends.¹¹ But, what is more fundamental is that Bates' objections to

¹⁰ It is interesting, and it belies Bates' motivation in objecting only to the Waller, Lansden and Skinner fees, that numerous other persons/entities had provided services to Sentinel prior to institution of the receivership and have continued to represent Sentinel after the institution of the receivership. It appears that Bates is being selective in his objections against Waller, Lansden and Mr. Skinner because none of the others who have provided services both pre- and post-receivership appear in his Expanded Objection #5.

¹¹ As can be seen from the summaries of WTC's fees filed with the Court, in December 2004, WTC worked on fifteen (15) separate Sentinel matters, fourteen (14) of which were on defaulted bond recovery matters. The majority of the WTC billing occurred on the general Sentinel receivership matter, which in December 2004 involved a December 1, 2004 hearing in Hohenwald on various motions, a December 15, 2004 hearing in Hohenwald on various matters, the finalization of numerous matters in anticipation of and completion of the December 15, 2004 transfer of fiduciary positions and in conducting research, document review and other related matters concerning potential third-party actions. The WTC work on the defaulted bonds during December 2004 included the drafting and presentation of numerous motions seeking approval of distributions which were heard on December 15, 2004 and also included continued efforts and coordination with local counsel in pursuing the default bond matters and other related matters. WTC stands by the billing submitted under seal to the Court as setting forth ample

the amount billed by WTC for December 2004 do not justify discovery or a June 9th evidentiary hearing. Rather, what is called for, if Bates' objection as to WTC billings stands, is following what has been the procedure since July 2004. Detailed billings are submitted to the Court for it to review. Objections can be filed, and if, in light of those objections, the Court finds the amounts to be excessive or unreasonable, then WTC stands ready to adjust that portion of the fee approval motion accordingly.

For these reasons, Bates' Expanded Objection #5 should be overruled.

IV. CONCLUSION

For the reasons presented, the Commissioner and Receiver request that:

- 1) All of Bates' "Expanded Objections," except Expanded Objection #4, be stricken;
and/or
- 2) All of Bates' "Expanded Objections," including Expanded Objection #4, be overruled.


Reference is also made to the Commissioner's and Receiver's Motion to Alter or Amend and/or Reconsider filed on March 14, 2005 as being in support of the relief requested in this Motion.

NOTICE OF SETTING MOTION FOR ORAL ARGUMENT

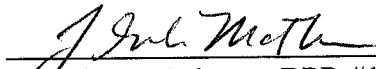
**THIS MOTION WILL BE SET FOR ORAL ARGUMENT BEFORE THE COURT
IN HOHENWALD, LEWIS COUNTY, TENNESSEE ON
MONDAY, MARCH 28, 2005 AT 9:00 A.M.**

justification for the fees charged. But, so as to leave no doubt, contrary to Bates' statement, December 2004 was a busy month which required quite a bit of legal work on behalf of the Sentinel receivership.

Respectfully submitted,


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*Counsel for Jeanne Barnes Bryant and
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of Sentinel Company, in Liquidation*

CERTIFICATE OF SERVICE

This is to certify that on March 21st, 2005 a copy of the foregoing Motion has been sent by First Class U.S. Mail, postage paid, to:

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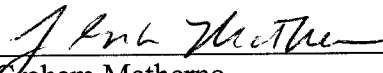
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J. Graham Matherne

EXHIBIT 1

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company

)
)
) Case No. 4781
)

FILED
AT 11:24 O'CLOCK A. M.

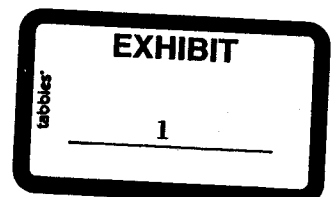
MAR 18 2005

JANET WILLIAMS, CLERK & MASTER
BY Debra L. Lyle

**ORDER SCHEDULING HEARING ON OBJECTIONS TO RECEIVER'S MOTION
FOR APPROVAL OF FINAL DISTRIBUTIONS FOR FORT PIERCE, FLORIDA,
HERNANDO COUNTY, FLORIDA AND TARRANT COUNTY, TEXAS BOND ISSUES
AND TO RECEIVER'S MOTION FOR APPROVAL OF RECEIVER, OUTSIDE
COUNSEL AND THIRD PARTY CONTRACTOR'S FEES**

Pending before the Court are the Sentinel Trust Receiver's Motions (filed February 17, 2005) seeking approval of final distribution of funds related to three defaulted bond issues known as the Fort Pierce, Florida Bond Issue, the Hernando County, Florida Bond Issue and the Tarrant County, Texas Bond Issue. Also pending before the Court is the Sentinel Trust Receiver's Motion for Approval of Receiver, Outside Counsel and Third Party Contractor's Fees (filed February 17, 2005). On February 25, 2005 "Objections of Danny N. Bates et al.¹ to Motions of Receiver for Approval of Expenditures and Disbursements re: Fort Pierce, Florida and Hernando County, Florida and Tarrant County, Texas Bond Issues" were filed. On February 28, 2005, these motions came before the Court for hearing. At that time counsel for Respondents, made oral objection to the Court concerning the Receiver's Motion for Approval of Receiver, Outside Counsel and Third Party Contractor's Fees, said objection being that Respondents assert that payment of those fees was going to be made from fiduciary assets.

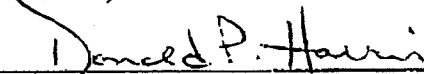
¹ The individuals making this filing are herein referred to, as they did in their filing, as "Respondents."



Upon consideration of the matters before it, the Court finds that a hearing is needed as to the objections made by the Respondents. Accordingly, the Court ORDERS as follows:


1. an evidentiary hearing will be set for June 9, 2005 concerning the objections of the Respondents to the Receiver's Motions as noted herein;
2. Respondents will have two weeks to file with the Court, and serve counsel with, the written form of the objections lodged orally at the February 28, 2005 hearing concerning Receiver's Motion for Approval of Receiver, Outside Counsel and Third Party Contractor's fees; and
3. the Respondents and the Receiver will be able to conduct reciprocal discovery but that discovery will be limited as to the topic matter of Respondent's objections which are set for hearing on June 9, 2005.

It is so ORDERED, this the 14TH day of March, 2005.



Hon. Donald P. Harris

Submitted for Approval


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CERTIFICATE OF SERVICE

This is to certify that on March 3rd, 2005, a copy of the foregoing Order has been sent via First Class U.S. Mail, postage prepaid to:

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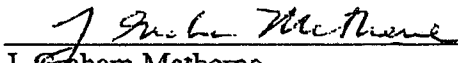

J. Graham Matherne

EXHIBIT 2

In Re: Sentinel Trust Company

2

APPEARANCES:

On behalf of Jeanne Barnes Bryant and Receivership
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I N D E X

Witness

Direct Cross Redirect Recross

[NONE]

P R O C E E D I N G S

(9:53 a.m.)

MR. MATHERNE: Your Honor, we have several motions pending before the Court. Absent instructions from the court, I would like to just launch into them.

The principle bulk of the motions before the Court, there are four that request the Court to approve final distributions with regards to collateral that has been brought back in on several defaulted bond situations.

We are also asking in regards to those motions that the Court also instruct the bondholders with regards to further claims to submit those claims into the Sentinel Receivership proof of claim process.

Your Honor, the background of this is that the Department of Financial Institutions took over Sentinel Trust Company back in May of last year. There was then followed up 30 days later with regards to a Notice of Insolvency in regards to the company.

The Receiver was appointed. In fact, back in May the Receiver was appointed, and the Receiver has been forging on in the Receivership doing many tasks, coming to this Court regularly with regards to circumstances.

And we have -- of recent vintage, we brought a couple prior to this one seeking the type of relief that we're asking today for in relation to the approval of

1 final distributions.

2 The Court under the statutory framework is
3 empowered with the right to approve distributions of all
4 assets of the company over \$500. We've come to the Court
5 particularly with regards to these types of motions under
6 that authority and with that request and relief sought.

7 Your Honor, the first one -- I think that if the
8 Court does not have an order I would go through -- then
9 the first one is a Thompson Place motion.

10 Thompson Place is a piece of property in
11 Davidson County that was a subsidized income housing
12 development that fell into default, made some periodic
13 payments with regards to the bond issue that had been
14 issued to finance the upgrade of the property, etcetera.
15 And had but, nonetheless, could not make the principal and
16 interest obligations and fell into default.

17 We were at a point in time when the Receivership
18 was instituted that that was in default. We forged on,
19 got bids, got appraisals as set forth in the papers, Your
20 Honor, and have made a sale of that with the Court's
21 approval. We came back. Exhibit A was the Order
22 approving the sale of the property.

23 And then moving forwards with regards to the
24 presentation before the Court, we are simply asking that
25 the Court order that the distribution of the proceeds

1 allow for a small amount of pre-Receivership attorney's
2 fees, allow for amounts expended by attorneys after the
3 Receivership in relation to the closing and attendant
4 matters.

5 And then, Your Honor, unless I am corrected, I
6 think that that is all the expenses that are attendant to
7 this particular one. The remainder to be distributed to
8 the bondholders, Your Honor.

9 We would note, Your Honor, that we have given
10 notice of this petition with regards to the request made
11 in to all the bondholders of the Thompson Place property,
12 as well as to all of the other parties shown on the
13 Certificate of Service.

14 JUDGE HARRIS: There anyone here with interests
15 in that?

16 Okay, submit your Order.

17 MR. MATHERNE: Thank you, Your Honor.

18 JUDGE HARRIS: Well, we're looking for motions.
19 He's apparently filed a bunch of motions that I've x--

20 COURT CLERK: Here's some.

21 JUDGE HARRIS: Well, put them up here on the
22 side where I can get them. (Pause)

23 MR. MATHERNE: Your Honor, do you have one that
24 I can turn to that one?

25 JUDGE HARRIS: What's the one you have?

1 COURT CLERK: Motion for Approval of Final
2 Distributions from Nashville Thompson Place --

3 MR. MATHERNE: That was the one we just covered.

4 COURT CLERK: Motion for Approval of Receiver
5 outside --

6 MR. MATHERNE: That is another one, but, Ms.
7 Clerk, it might be -- I don't know that the Thompson Place
8 one was that thick.

9 Are there some in between?

10 COURT CLERK: And the Thompson Place has --

11 MR. MATHERNE: That's one we've --

12 Your Honor, Tarrant County involves a bond issue
13 that was sent to market. Sentinel Trust was the
14 indentured trustee to that issue. It related to the
15 financing purchase of a doctors' hospital in Tarrant
16 County, Texas. That entity fell into default very soon
17 into its history. We have progressed with a number of
18 things and would ask the Court for several points of
19 relief in this motion.

20 Number one, we have an outstanding settlement
21 that we would want the Court to be aware of and approve.
22 Assuming that approval, Your Honor, then we have all of
23 the proceeds of the collateral that would be realized from
24 the Tarrant County bond issue and we would then be in the
25 same motion being asked the Court to approve the

1 distribution as set forth in the schedules to that motion
2 to pay off accrued fees and matters that are of record
3 before the Receivership was instituted, as well as
4 expenses and matters accruing after the Receivership.

5 JUDGE HARRIS: (Pause) Okay. Anyone here
6 interested -- now what is it you want me to -- a
7 settlement you want me to approve?

8 MR. MATHERNE: Well, that's the first aspect of
9 it, Your Honor. Yes, Your Honor, there was a settlement
10 that has been reached in principle. And attached as
11 Exhibit A is the approved settlement document and release
12 agreement between the Sentinel Trust Receivership and an
13 entity known as Tri-Health. Tri-Health was an entity that
14 alleged it was owed a fair amount of money arising out of
15 services it said that it had rendered to the Texas
16 Receivership down in Tarrant County.

17 There was from the sale of the proceeds of the
18 collateral down in Texas \$900,000 held back down in Texas
19 to address that outstanding claim of Tri-Health. That has
20 been negotiated to a settlement, Your Honor. And the give
21 and take and the circumstances surrounding that are set
22 forth in the papers.

23 But basically, Your Honor, we are at a point
24 where we are recommending if the Court would approve the
25 settlement that would allow \$262,000 of that nine hundred

1 to be released back to the Sentinel Trust Receivership.
2 The remainder being in settlement of the all claims that
3 Tri-Health had asserted in those Texas bankruptcy
4 proceedings.

5 That's the first part of this motion, Your
6 Honor.

7 JUDGE HARRIS: Okay.

8 MR. MATHERNE: I do not think that that portion
9 I have any objection to.

10 The second portion is that, assuming we have
11 that \$262,000 in, we know the amount that we have. Now to
12 turn around and pay the expenses that have accrued and
13 address what residual payments there would be to
14 bondholders, the holders of the bond issues from this
15 Texas county.

16 JUDGE HARRIS: Three and a half cents on the
17 dollar.

18 MR. MATHERNE: It is not a good pay out, Your
19 Honor. And I think that that is -- that there are a
20 cluster of reasons in regards to that that can be
21 explained and spoken about here today. But it is not a
22 good result.

23 Unfortunately we have brought to this Court
24 worse results in regards to the Sentinel Trust insolvency.
25 And we have some just about as bad.

1 JUDGE HARRIS: Is there anyone wants to be heard
2 on this issue?

3 MR. SCHWENDIMANN: Yes, Your Honor. I'm here on
4 behalf of the corporation and its Board of Directors to
5 oppose the distribution and the numbers that the Receiver
6 is giving the Court.

7 In point of fact, the Receiver is asking the
8 Court to put its informater on the conversion or
9 misapplication of trust funds. And they have understated
10 what should be returned to the pooled account by 1.2
11 million dollars.

12 MR. MATHERNE: That is blatantly false.

13 JUDGE HARRIS: I would like to hear the
14 explanation.

15 MR. SCHWENDIMANN: Do what, Your Honor?

16 JUDGE HARRIS: You want to explain that?

17 MR. SCHWENDIMANN: Yes.

18 There was a Response filed Friday afternoon,
19 Your Honor, of objections of Mr. Bates and other Board
20 members to the three motions that deal with Fort Pierce,
21 Florida; Hernando County, Florida; and Tarrant County,
22 Texas.

23 The first thing I want to bring your attention
24 to is Exhibit A of that objection. Let me see if I can --
25 on my copy it's actually at the back. It is Trust

1 Department Controlled Account open invoices as of May
2 11th, 2004.

3 This is, I believe, about seven days before the
4 Commissioner seized control of Sentinel Trust Company.
5 These records of the company itself show that with regard
6 to Fort Pierce --

7 MR. MATHERNE: Are you going to talk about Fort
8 Pierce or are you just going to focus on Tarrant?

9 MR. SCHWENDIMANN: Well, I was going to cover
10 all three, Your Honor, if that's all right while I'm up --

11 JUDGE HARRIS: Let's move one step further.
12 What do we need to do?

13 We're not ready to have a hearing about this
14 today; are we?

15 MR. MATHERNE: Well, Your Honor, I don't think
16 there's a need for a hearing.

17 MR. SCHWENDIMANN: Well, we think there is very
18 much a need for a hearing, Your Honor.

19 JUDGE HARRIS: Okay.

20 MR. SCHWENDIMANN: And that the Receiver is
21 about -- I don't want to go too far here. But I'll stick
22 to what I said, misapplying or converting trust funds for
23 ultimately its own benefit.

24 MR. MATHERNE: Would you explain how that's to
25 our own benefit, Mr. Don?

1 JUDGE HARRIS: Go ahead.

2 MR. SCHWENDIMANN: All right. As of May 11th,
3 2004, Your Honor, this Exhibit A showed overdraft charges
4 through April to be \$305,209.87 for Fort Pierce.

5 JUDGE HARRIS: Wait a minute now.

6 MR. SCHWENDIMANN: And I'm reading from
7 Paragraph 3 of the objections filed Friday afternoon, page
8 2.

9 And I would emphasize to the Court these are
10 records of the corporation. They were there when the
11 Receiver took over and they should be there now.

12 It shows an overdraft through April of
13 \$739,588.12 for Hernando County, and \$871,480.98 for
14 Tarrant County.

15 Now part of Sentinel's schedule of fees and
16 expenses and charges was that for each overdraft there was
17 applied a one and one half percent per month compounded
18 interest rate. So when you add those, Fort Pierce has a
19 resulting overdraft through December 31st --

20 JUDGE HARRIS: What are you calling an
21 overdraft?

22 MR. SCHWENDIMANN: Let me put it this way.
23 Sentinel Trust was a corporate trustee for various bond
24 issues, many of which were highly speculative, in some
25 cases almost like junk bonds.

1 When one of those bond issues went in default,
2 then as trustee it was the obligation of Sentinel Trust to
3 work that default out. It employed attorneys. Other
4 professional people tried to keep the business going so
5 that there could be a sale for the highest possible value.

6 Now in expending funds for lawyers, accountants,
7 experts in various fields, that created an overdraft in
8 the pooled account of all of Sentinel's accounts as to
9 that one issue. But rarely if ever more than the value
10 ultimately realized when the workout was completed.

11 So when I speak of an overdraft here, I'm
12 talking about monies that had been expended from the
13 pooled trust account to work out the Fort Pierce default,
14 the Hernando County default, and the Tarrant County, Texas
15 default.

16 JUDGE HARRIS: Okay.

17 MR. SCHWENDIMANN: When those are worked out,
18 those funds first have to go back into the pooled account
19 or else holders of non-defaulting issues pay for holders
20 of defaulting issues.

21 So what the Receiver is doing here today is
22 understating those overdrafts, which are clearly a matter
23 of corporate records. And by so doing effectively, if not
24 intentionally, they're hiding 1.2 million dollars from the
25 Court.

1 Those overdrafts with the one and a half percent
2 monthly charge from May through December total
3 \$2,158,667.67. But Mr. Matherne, on behalf of the
4 Receiver, is representing to the Court today that those
5 overdrafts total considerably less, in fact, \$1,193,000
6 less.

7 So when they reimburse the pooled account for
8 less than is actually due it, they create a fund over here
9 of 1.2 million dollars roughly that they can use for
10 something else down the road.

11 Now I don't know if that's supposed to be a --

12 JUDGE HARRIS: Somewhere you --

13 MR. MATHERNE: Don, could I have a stab at this?

14 JUDGE HARRIS: I'm dense, but I just don't --

15 MR. SCHWENDIMANN: No, it's just --

16 MR. MATHERNE: Could I have a stab at this?

17 JUDGE HARRIS: I sort of understand that they
18 paid out monies. That's what you call that overdraft?

19 MR. SCHWENDIMANN: Right. The corporation has.

20 And then secondly they're trying to get the
21 Court to approve their fees out of trust funds, not out of
22 corporate assets. And when this corporation was taken
23 over, it didn't owe anybody. It didn't owe a penny to
24 anyone.

25 Their fees, we submit, must come from corporate

1 assets, not from trust funds.

2 Section 507 of the Tennessee Uniform Trust Code
3 says that trust property is not subject to personal
4 obligations of the trustee even if the trustee becomes
5 insolvent or bankrupt.

6 But that's exactly what they're doing. They're
7 asking the Court to approve their fees and expenses out of
8 trust funds. That's what they accused Mr. Bates of doing,
9 which he wasn't doing, but now they're doing and have done
10 and successfully up until this point.

11 These monies that are derived from the workouts,
12 settlements of these defaulted issues must go back into
13 the pooled fund. And we say why the rush until all of
14 this is done so that the holders of non-defaulting bonds
15 don't suffer the same consequences as people who made the
16 wrong investment.

17 JUDGE HARRIS: Okay. You want to tell me what
18 you think this is about?

19 MR. MATHERNE: Well, Your Honor, there is much
20 to comment upon. A total denial of this whole statement
21 might be in order. I don't think there is very much
22 truthful in any of it. So let that stand for the record.

23 He's impugned my client; he's impugned the
24 Commissioner of Financial Institutions in his comments. I
25 deny them categorically and emphatically.

1 MR. SCHWENDIMANN: Well, let me say this. The
2 Receiver has given Sentinel's to SunTrust from which this
3 Commissioner came. That was his immediately preceding
4 employer.

5 MR. MATHERNE: The Commissioner has done nothing
6 of the sort, Your Honor.

7 We've been before this Court numerous times in
8 front of Judge Davies, working every one of these issues
9 out. And Mr. Schwendimann feels comfortable enough to
10 mislead this Court. That's fine.

11 But what is happening here, Your Honor, is that
12 there is a shortfall of a magnitude of about eight million
13 dollars, perhaps onward to ten million, in a pooled
14 fiduciary account.

15 The results of that have been under
16 investigation and have been long lived with regards to the
17 actions of the Bates' family. So we're investigating that
18 and, indeed, that is going to be part of the Motion to
19 Quash here in a little while.

20 But what at least a large material portion of
21 that eleven million dollar shortfall relates to the
22 circumstances of the Bates allowing withdrawals from a
23 pooled fiduciary account to pay for the expenses of a non-
24 related defaulted bond issue.

25 Their theory and Mr. Schwendimann has said

1 rarely, if ever, I don't know how much truth there is into
2 that. We'll investigate and find out. But in several
3 instances I'm aware of those overdrafts well exceeded the
4 amount of the collateral value.

5 There are many options that a trustee could do.
6 Take a line of credit out, not go beyond the reserve debt
7 reserves, the other funds that are held back. They chose
8 to divert funds from a pooled fiduciary account to pay for
9 the expenses incurred on a non-related default bond
10 issues.

11 And that has resulted in a large shortfall. And
12 that has resulted in the insolvency of the company. And
13 that has resulted in the Commissioner of Financial
14 Institutions being forced to take possession of this
15 enterprise.

16 Now that's just some history, Your Honor. Here
17 today we're here in relation to four bond issues, one of
18 which was not contested. What we really do -- if you look
19 at what is stated in their objections, they actually agree
20 with some of our calculations. When you look at it, what
21 they don't agree is two things.

22 Number one is that they don't think that the
23 fees and expenses and default termination fees that they
24 accrued on their own books should be taken as a payment to
25 Sentinel Trust.

1 They did it in the past. When they were in
2 charge, they would take fees. As collateral would come
3 in, they would take default administration fees. They
4 would take their fiduciary fees that had been accruing
5 over the course of the default. And now that money comes
6 in from the sale of the building or the land. They take
7 those fees.

8 Now they're saying that we should not do that.
9 They're saying that because they want all of this money to
10 work back and try to shorten the shortfall in the
11 fiduciary account. And we have a plan to do exactly that.

12 The second thing that they don't like is that
13 they think that interest components in regards to the
14 computations should not be allowed.

15 But they say that in a context really where,
16 when you look at an attachment to this submission, they
17 admit that that's exactly what's appropriate to be done is
18 that the one and a half percent per month charge on the
19 outstanding overdraft is a charge. It is a fee of
20 Sentinel Trust charged against the defaulted bond issue.
21 And it is --

22 JUDGE HARRIS: We're not going to be able to
23 resolve this today.

24 Do you object to the settlement?

25 MR. SCHWENDIMANN: Which settlement is that? I

1 think there's --

2 MR. MATHERNE: Just the application of funds,
3 Your Honor.

4 JUDGE HARRIS: A settlement we can approve with
5 try -- so let's do that. And let's set this -- it's going
6 to take some study by someone to understand what you all
7 are talking about.

8 Can we agree that we can present witnesses?

9 MR. SCHWENDIMANN: If that's what we need to do,
10 Your Honor.

11 MR. MATHERNE: Well, he's trying to quash
12 Discovery otherwise. So I'd like to know exactly -- you
13 know, if he's going to be presenting witnesses, I'd like
14 to take Mr. Bates' deposition prior to the hearing.

15 When are you going to offer them up?

16 MR. SCHWENDIMANN: We're going to let the Judge
17 make that ruling, Mr. Matherne.

18 MR. MATHERNE: Okay.

19 JUDGE HARRIS: Well, I tell you if we're going
20 to do it that way, then we ought to treat it like a
21 lawsuit.

22 MR. SCHWENDIMANN: And that's our position
23 today, Your Honor. It's never been treated like a lawsuit
24 as it should have been.

25 Thankfully I deleted something I had in my

1 Motion to Quash, but in point of fact --

2 JUDGE HARRIS: Would you go get me some dates
3 from Ms. Rhonda, as many as she can give me?

4 MR. SCHWENDIMANN: In point of fact, they've
5 walked in here --

6 JUDGE HARRIS: From now until as far as she's
7 got them.

8 MR. SCHWENDIMANN: -- stood up, made a few
9 statements, and the Judge signed off.

10 JUDGE HARRIS: Well, that's the reason I say is
11 anybody here wants to be heard because I -- I mean we
12 typically don't understand these --

13 MR. MATHERNE: Your Honor, there were two
14 motions identical to Tarrant County and Fort Pierce and
15 Hernando. They were served on the Bates. They had no
16 objections. And that was within a month to six weeks ago.
17 They weren't here objecting. They didn't even show up.
18 So those orders went down fine.

19 And those orders have resulted in the actual
20 disbursement of monies to bondholders and the
21 circumstances relating to the relief requested.

22 But, Your Honor, to sit here and say this is a
23 circumstance where we've just danced in and danced out is
24 totally --

25 JUDGE HARRIS: Well, we're not going to argue

1 today. We're going to come back and treat it like a
2 lawsuit. In fact, I guess we could treat your motion like
3 a complaint and then you can answer it or vice-versa. I
4 don't know.

5 MR. SCHWENDIMANN: If that's going to be our
6 complaint, Your Honor, we'd certainly need time to amend
7 it.

8 MR. MATHERNE: Your Honor, this is a
9 Receivership action. It does not afford itself to -- I
10 mean again the Court -- and we're not trying to say we're
11 not going to answer whatever and we're not going to
12 conduct Discovery.

13 JUDGE HARRIS: Well, how are we going to get the
14 issues out that the two of you have? That's the --

15 MR. MATHERNE: Your Honor, I think that the
16 issue focuses on two things. Number one is whether
17 interest component charged is to be allowed to be taken by
18 the company, because it was charged by the company, or
19 whether it needs to go to the pooled fund.

20 And number two as to whether the charges before
21 the Receivership accrued and made by former management are
22 to be allowed --

23 JUDGE HARRIS: Now that's what I say. It's
24 going to take longer than we have today.

25 When you say the ~~the~~ interest component, ~~the~~ I don't

1 know what you're talking about.

2 MR. MATHERNE: Well, it is shown on Exhibit B to
3 our petition, to our motion.

4 MR. SCHWENDIMANN: That's a penalty, Your Honor.
5 That's part of Sentinel's schedule of fees and charges.
6 It does not go back to the company. It goes to the pooled
7 trust fund.

8 And Mr. Matherne either refuses or cannot
9 distinguish between the corporation and the trust account.

10 JUDGE HARRIS: Well, we're going to get a date
11 to hear this and then both of you can get to it. And
12 she's going to get as many dates as there are.

13 MR. MATHERNE: Would you like to go ahead
14 through the Motion to Quash, Your Honor?

15 JUDGE HARRIS: Yes.

16 MR. MATHERNE: Oh, Your Honor, there was one
17 other motion that I was moving on and that's the motion
18 for fees. There was not an objection lodged with that
19 motion, or that I'm aware of.

20 MR. SCHWENDIMANN: We would ask that that be
21 deferred, Your Honor, until the Court has had an
22 opportunity to hear all of this.

23 JUDGE HARRIS: Okay.

24 MR. SCHWENDIMANN: Because again our contention
25 is that they're taking monies from trust accounts.

1 MR. MATHERNE: Your Honor, that is so paper
2 thin.

3 JUDGE HARRIS: Well, it won't hurt to hear it
4 all together.

5 MR. MATHERNE: These are fees that are being
6 expended that have already in relation to matters that
7 have been done for a long time. And it's needed to keep
8 going in regards to payment --

9 JUDGE HARRIS: Well, if he's objecting to it,
10 I'm going to set it for hearing with the other.

11 MR. MATHERNE: All right, sir.

12 JUDGE HARRIS: Motion to Quash.

13 MR. SCHWENDIMANN: If Your Honor please, in this
14 matter I represent Danny N. Bates, Deanna June Bates, and
15 Clifton Todd Bates. Danny N. Bates is the controlling
16 shareholder of Sentinel Trust Company and owns almost all
17 of the stock. Clifton Todd Bates is his son and was a
18 member of the Board of Directors. And Deanna June Bates
19 is his wife.

20 Despite the fact that there has never been an
21 action filed in a Tennessee court, only this notice to the
22 Court of seizing Sentinel Trust and then going to the
23 Judge for approval of certain orders, the statutory
24 scheme, let me point out, Your Honor, even provides that
25 the Commissioner can liquidate a company with but the ex-

1 parte approval of the court under the scheme by which they
2 are in this court today and have been since May.

3 Mr. Matherne has noticed Danny Bates, Todd
4 Bates, and Deanna June Bates to take document depositions.
5 I have filed a Motion to Quash the subpoenas in relation
6 thereto because primarily there is no action pending.

7 JUDGE HARRIS: Well, there is now; is there not?

8 MR. SCHWENDIMANN: Well, and, Your Honor, if
9 this kind of opens the doors and gives them the right to
10 get Discovery, issue subpoenas, find out what these people
11 have been doing with the corporate assets and the trust
12 funds for the last eight months, then probably I can
13 withdraw the Motion to Quash.

14 JUDGE HARRIS: Well, I think it does with regard
15 at least to the issues that are relating to these three
16 bond issues or whatever. And it may be that anything
17 relevant to that, it may be that that opens the door to
18 everything. I don't know.

19 MR. SCHWENDIMANN: Well, if the Court could give
20 us a ruling to that effect, then so that we can just go
21 from there.

22 MR. MATHERNE: Your Honor, again my -- what I
23 feel needs to be stressed is that this is a Receivership
24 action that involves searching out, finding assets for the
25 distribution to the claimants of the estate.

1 JUDGE HARRIS: Well, that's sort of the same
2 thing that Mr. Schwendimann is asserting in behalf of his
3 clients.

4 MR. MATHERNE: I do not follow that as being his
5 assertion. As far as the Motion to Quash, they just don't
6 want to turn over documents that will assist us in finding
7 assets to distribute to the claimants of the estate. And
8 that's quite clear.

9 But to the extent that he is saying that now we
10 have a lawsuit, Your Honor, that seems to be the main
11 thrust of their argument is that there is no lawsuit here.

12 Your Honor, I mean we're going to follow this
13 Court's instructions with regards to the nature of the
14 Discovery and the hearing that it wants to set. But to
15 the extent that -- I give only due deference to the
16 imagination of Mr. Bates and his counsel as to what that
17 will entail.

18 And we'll be embroiled and spinning out into
19 Discovery and side litigation that is not in the best
20 interests of the claimants of this estate. It is not in
21 the best interests of the bondholders that need to be
22 paid. It is not in the best interests of shortening up
23 the eleven million dollar shortfall in a pooled fiduciary
24 account that the Bates saw happen.

25 MR. SCHWENDIMANN: Your Honor, may I just remind

1 the Court of his recklessness?

2 He started out saying an eight million
3 shortfall. Now it's eleven. The books and records show
4 when this Receiver, this Commissioner -- let me correct --
5 took over, the audited shortfall was 7.18 million dollars.

6 They have taken in 7.8 million dollars since
7 then. Now that takes some creation to get to an eight to
8 eleven million dollar shortfall.

9 MR. MATHERNE: Your Honor, all this has been
10 submitted and is of record with this Court and/or with
11 regards to the other courts.

12 He's trying to challenge our action, Your Honor.
13 That's the basic modus operandi of his argument and of his
14 client's instructions is challenge our actions.

15 There is a venue for that, a statutory venue,
16 and that's up in Davidson County, where they have filed a
17 petition for cert. They don't want to go forward with it,
18 but they have filed it. That's where you challenge the
19 Commissioner's actions.

20 And that's statutory, Your Honor. And every
21 court that has addressed that has so found, including this
22 court by reference to a transcript that I can provide the
23 Court tomorrow.

24 Now they, the challenge to the Commissioner's
25 actions, that's really where they're at. They need to go

1 where the statute directs them.

2 MR. SCHWENDIMANN: Your Honor, that's what --

3 MR. MATHERNE: That's where a lawsuit is --

4 MR. SCHWENDIMANN: I understand --

5 MR. MATHERNE: They started it.

6 MR. SCHWENDIMANN: I understand in regard he's
7 not wanting me to talk, but that's what Sentinel tried to
8 do.

9 Employing the Administrative Procedures Act,
10 they correctly asked for a hearing before the Commissioner
11 in May. The Commissioner could not afford them a hearing
12 until tentatively in October, by which time they had
13 already raided this corporation and destroyed its
14 business.

15 MR. MATHERNE: That is incorrect, Your Honor.

16 MR. SCHWENDIMANN: And that's why they went
17 straight to Davidson County Chancery Court. They could
18 not -- the state would not afford this corporation the
19 remedy that its own law sets out.

20 MR. MATHERNE: That is incorrect, Your Honor.
21 But I don't know that -- my concern --

22 JUDGE HARRIS: Well, I will allow -- I think the
23 motion and the objection are adversarial in nature.

24 We'll have a hearing on it, and I think you're
25 entitled to reciprocal Discovery with regard to those

1 motions.

2 MR. SCHWENDIMANN: All right, Your Honor.

3 MR. MATHERNE: So the Motion to Quash?

4 JUDGE HARRIS: Is denied to that extent.

5 MR. MATHERNE: So, Your Honor, the Motion to
6 Quash was in regards to documents that assist the
7 Receivership now.

8 When you say ~~to~~ to that extent, ~~I~~ I think what I'm
9 going to hear from my brother, Mr. Schwendimann, is that
10 you can talk about these three bond issues and that's all.

11 Is that the Court's ruling?

12 Because this is on a separate track, Your Honor.
13 The subpoenas were issued to assist us to try to locate
14 assets. And if you look at the example, I mean, this is
15 not a fishing expedition, Your Honor. There is evidence,
16 we feel -- and they can rebut.

17 JUDGE HARRIS: Don't you have to make them a
18 party to the lawsuit or something to do that?

19 MR. SCHWENDIMANN: That's what I was thinking.

20 MR. MATHERNE: This is a Rule 45 subpoena. It's
21 a third party Discovery. They're a party. They've
22 appealed. Well, they are in every real sense. They call
23 themselves Respondents. But, nonetheless, because I knew
24 Mr. Kilgore was making arguments that they're not a party,
25 I issued subpoenas to them. And it's under Rule 45. I

1 mean we're asking --

2 JUDGE HARRIS: Do you have Rule 45 with you?

3 MR. MATHERNE: Your Honor, I do not know that I
4 do. But I have the subpoenas that are issued pursuant to
5 this. (Pause)

6 MR. SCHWENDIMANN: Your Honor, if I may before
7 you look at that, they have issued subpoenas for documents
8 and records going back to 1996. The State of Tennessee
9 did not have any supervisory authority over this company
10 until a legislative act went into effect on July 1st,
11 1999.

12 Since then the corporation has been audited
13 every year by outside independent accountants, as well as
14 having been examined by duly appointed examiners of the
15 Department. And we certainly think that anything prior to
16 July 1, 1999 is outside the scope of what they are
17 entitled to look into.

18 MR. MATHERNE: Your Honor, those same
19 independent accountants refused to issue any sort of clean
20 bill of health to this company prior to the taking over of
21 the company by the Commissioner.

22 Your Honor, to say that this is limited, I would
23 just ask that you look at Exhibit 5 and 6. These are
24 their own records that we have looked at. They show back
25 in '96, '97, '98, and '99 millions of dollars being taken

1 out of the trust fund, fiduciary accounts and corporate
2 accounts, to pay for their own enjoyments, of building of
3 a mansion here in Lewis County, and other matters.

4 JUDGE HARRIS: Why haven't you brought suit
5 against them to recover those funds?

6 MR. MATHERNE: Your Honor, that may well be what
7 we're going to do.

8 JUDGE HARRIS: Then you would be entitled to
9 Discovery.

10 MR. MATHERNE: But by the same token if we are
11 saying -- this is an action, Your Honor. There can be no
12 dispute that this is an action and we have the rights.

13 If they have records that show us to be wrong,
14 if all of this was earned, earned income, show us the
15 material. That's what we're asking for them to show us.

16 MR. SCHWENDIMANN: Rule 2 says an action is
17 commenced by a complaint and a summons. There were no
18 summons ever issued in this case, Your Honor.

19 MR. MATHERNE: Your Honor, with Receiverships,
20 the ones that I'm familiar with, statutory receiverships
21 are issued upon a petition or an application or a notice
22 of file and is given to interested parties, the Bates.
23 And that's exactly how this was begun here in this court.

24 Under the statutory provisions of this
25 Receivership, this Court is involved in many aspects. We

1 can't distribute assets absent this Court's approval. We
2 can't render a final accounting absent this Court's
3 approval with notice to everyone involved.

4 Your Honor, this belies the circumstance here to
5 say that this is not an action. It is. And we need the
6 help of the Discovery powers that this Court can give us
7 in regards to --

8 JUDGE HARRIS: What statutory authority do you
9 have for having that Discovery power?

10 MR. MATHERNE: Your Honor, it allows us --

11 JUDGE HARRIS: Now what's the -- I want to read
12 the statute.

13 MR. MATHERNE: Well, it's 4521501 *F sec.

14 JUDGE HARRIS: Do you have it?

15 MR. MATHERNE: Your Honor, I have it in my car.
16 Wait a minute, Your Honor. Your Honor, I have the entire
17 1501 section.

18 JUDGE HARRIS: Hand that up to me, please.

19 MR. MATHERNE: Your Honor, with regards to that,
20 that establishes that this action goes forward under the
21 supervision of this Court. A primary focus of this
22 Receivership is the location, preservation, and pursuit of
23 assets. And that's what we're asking this Court to help
24 us to do.

25 JUDGE HARRIS: What's the statute that you cited

1 to me?

2 MR. MATHERNE: 1504, Your Honor, is where we're
3 talking about involuntary liquidation. That's what will
4 show the Court in A, G, and K that the powers that the
5 Court brings to bear.

6 I mean this is not a rubber stamp as Mr.
7 Schwendimann characterizes this Court in its filing. It's
8 not presumptory as what we're doing here today or have
9 been doing here before this Court since May of last year.
10 It is simply a circumstance, Your Honor, where this is a
11 real live dispute.

12 We're in need of Discovery to discharge the
13 duties of the Receiver.

14 MR. SCHWENDIMANN: Your Honor, if they have a
15 dispute with Mr. Bates personally, Mrs. Bates personally,
16 Todd Bates personally, then they need to file an action
17 commensurate with the complaint in the summons as the law
18 requires.

19 JUDGE HARRIS: When the Commissioner took over
20 this company, did it take over its books and records?

21 MR. MATHERNE: Yes, Your Honor.

22 JUDGE HARRIS: Well, there's nothing in the
23 dispatches that even creates an obligation to discover
24 assets.

25 MR. SCHWENDIMANN: Your Honor, I --

1 JUDGE HARRIS: I would think that would be
2 implied in what the Commissioner should do.

3 But if you have reason to believe that they took
4 money that they weren't entitled to, then I think it's
5 your obligation to file a suit to recover that, and then
6 you could take your Discovery.

7 MR. MATHERNE: Well, Your Honor, and again I
8 hear you loud and clear. It would also seem to me to be
9 an obligation to try to see what they have before I haul
10 off and file the lawsuit. If they've got explanations as
11 to any and all of the circumstances that they know are at
12 play --

13 JUDGE HARRIS: Well, then the way to do that
14 would be to put it in a letter to them saying these
15 actions don't pass the Smith test, and if you have a
16 response to it before I file the suit, you can respond.

17 MR. MATHERNE: Well, Your Honor, that's true but
18 I have not found it to be a circumstance, but what a
19 document --

20 JUDGE HARRIS: At this point the Discovery be
21 limited to the issues raised by the motions.

22 MR. MATHERNE: Thank you, Your Honor.

23 JUDGE HARRIS: Why don't you get the name and
24 see if they can find the dates?

25 How long will -- this might take even more than

1 one day it seems.

2 COURT CLERK: The ones that are underlined, May
3 12th, June the 9th.

4 JUDGE HARRIS: What are all these other dates?

5 COURT CLERK: We just went through all the
6 dates. June the 9th is open.

7 JUDGE HARRIS: June the 9th.

8 MR. MATHERNE: Your Honor, am I to understand
9 that no other fee application is going to be ruled upon
10 until after this hearing?

11 JUDGE HARRIS: No other fee?

12 MR. MATHERNE: No other fee application. Fee
13 application for approval of fees because that is one of
14 the powers that this Court has under the statute.

15 And I was wondering if that's going to be -- you
16 had mentioned that you would not do that in light of the
17 statement of counsel that we're paying ourselves with
18 trust funds. And I'm just concerned as to whether that
19 means that --

20 JUDGE HARRIS: Well, as long as there's an
21 objection to it, we're going to resolve all that on June
22 the 9th.

23 MR. MATHERNE: And the verbal objections today
24 was -- there was no objection filed today. Today he made
25 verbal objections.

1 JUDGE HARRIS: Well, if he doesn't file one
2 within two weeks, then I'll reconsider that.

3 MR. MATHERNE: Thank you, Your Honor.

4 The Thompson Place was granted.

5 JUDGE HARRIS: Yes.

6 MR. MATHERNE: Thank you, Your Honor.

7 JUDGE HARRIS: Mr. Schwendimann, if you prepare
8 an order setting this motion and objection for hearing on
9 June 9th, so that somebody else doesn't get that date.

10 MR. SCHWENDIMANN: Okay.

11 (Whereupon, this hearing was concluded at 10:45
12 a.m.)

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CERTIFICATE OF REPORTER

I HEREBY CERTIFY the foregoing is a true and accurate transcript of the transcript for Sentinel Trust Company, held on February 28, 2005, Hohenwald, Tennessee.

I further certify that I am neither of kin nor counsel to any of the parties hereto and that I am not interested in the outcome of this proceeding.



Notary Public At Large

My commission expires:
April 27, 2008

EXHIBIT 3

IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE

FILED
AT 3:22 O'CLOCK P.M.

MAR 14 2005

In re:

SENTINEL TRUST COMPANY

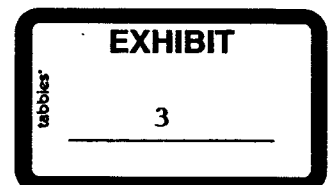
) JANET WILLIAMS, CLERK & MASTER
) BY Selina Wix
) No. 4781
)
)

Expanded Objections of Danny N. Bates, et al.,
to all Pending Motions of Receiver
Reset for June 9, 2005

The objecting parties, Dannie N. Bates, et al., and Sentinel Trust Company by its Board of Directors, (hereinafter, "Objecting Parties," being the same parties who objected on or about February 25, 2005 to certain motions of the Receiver) incorporate those objections by reference herein and make the following objections to all motions of the said Receiver still pending:

1st: Objecting parties previously presented to the Court their substantial and specific objections, by appearances and statements by counsel in open Court on June 30, 2004 and July 12, 2004, as per hearing transcripts filed, by filing in the Court on June 30, 2004, as an exhibit, a copy of the petition for *Certiorari* filed in the Davidson County Chancery Court, and by filing other specific objections to transfer of fiduciary positions to alleged successor trustees on or about November 12, 2004. The issues so raised include:

- (a) Said parties' insistence that the Commissioner is wholly without power to take the actions he has taken in seizing and proceeding to destroy Sentinel Trust Company, and his charges that Sentinel had become insolvent are and were false and fictitious. The basis of these positions is spelled out most succinctly in a complaint some of the said parties filed in the U. S. District Court for the Middle District of Tennessee (since dismissed *without prejudice* in deference to the decisional authority of Tennessee state courts), a copy of which is a part of their objections filed November



12, 2004..

- (b) As detailed in such earlier filings, some of the Commissioner's most egregious incorrect assumptions that are the basis of his claim of powers to act so destructively are that

(i) Statutory powers given him to be exercised specifically over only **state banks** are assumed by him without valid rationale to empower him to exercise the same powers over state trust companies, which are not banks and which lack the characteristics of a bank and the hazards inherent in the operation of every bank;

(ii) He erroneously viewed assets of Sentinel in its fiduciary capacity as being liabilities of Sentinel, when they are instead liabilities of various defaulted bond issuers in amounts reasonably believed to be more than covered by assets undergoing liquidation procedures;

(iii) In claiming to so conclude the Commissioner disregarded the fact that the liabilities were owed by such bond issuers to Sentinel in its fiduciary capacity (*e.g.*, equitably, subject to collection, the property of non-defaulting bond issuers whose money constituted the pooled account, after the payment of liabilities to their bond-holders) totaled more than double the amounts actually "borrowed" because such overdraft-created debts generated an additional charge of 1½% per month, compounded monthly;

(iv) In so assuming insolvency, the Commissioner erroneously disregarded the fact that he is given no lawful power to adjudge whether Sentinel had breached its trust powers, because such jurisdiction is vested exclusively in the Chancery Courts under T.C.A. § 35-3-117(j)(1)-(3), which limits the liability of a trust company (or bank) for breach of fiduciary obligations to the total of underpayments to trust beneficiaries, and during Sentinel's management of its business, it never caused any underpayment to any beneficiary (being bond-holders under bond-indenture trusts of which Sentinel was trustee).

In sum, all the Commissioner's activities evinced either a deliberate intent to unjustifiably destroy Sentinel, or else total disregard of the nature of trust company business as distinguished from the banking business, e.g., the failure to exhibit the degree of professional competence demanded to exercise properly the powers vested in him. By such actions, he is seeking to obtain the shield of the appearance of an adjudication of illegality to cover acts which, if he is empowered to commit them at all, is empowered by statutes to do so on his own authority and at his own peril.

The foregoing issues described above are awaiting briefing, argument and decision before the Tennessee Court of Appeals upon appeal from certain orders entered by this Court as final judgments, and are still awaiting trial before the Davidson County Chancery Court, with the result that it is presumably within this Court's discretionary power to withhold ruling by retaining all motions under advisement pending appellate court action.

2nd: The basis of the Commissioner's claim of power is that Sentinel Trust Company, as a fiduciary, has become insolvent, and he has throughout claimed the power to use trust funds from Sentinel's pooled trust funds account—being the property of trust settlors (bond issuers) or the property of trust beneficiaries (bond holders)—to run his receivership operations. Such use is wholly illegal and without authority because both Federal (in regard to bankruptcy trusteeships) and State (in regard to insolvency receiverships) authorities hold that such trust funds, not being the property of the insolvent fiduciary holding them, are immune from ownership or right of control by an insolvent fiduciary's receiver or trustee in bankruptcy, *Caplin, Trustee, v. Marine Midland Grace Trust Co.*, 406 U.S. 416, 92 S.Ct. 1678, 32 L.Ed.2d 195 (1972), and *Wagner, Trustee v. Citizens' Bank & Trust Co.*, 122 Tenn. 164, 122 S.W. 245 (1909).

3rd: Most respectfully, this Court is without jurisdiction to enter the orders sought, hence should refrain from issuing any such orders, upon the rationale set out below:

(a) General Tennessee law has established, through judicial decisions, that when a court is empowered by statute to grant only specific and limited relief under stated conditions, it is without jurisdiction to enter orders granting relief in excess of that authorized by statute, so that such orders are void for lack of jurisdiction, even when in the form of a consent final judgment. *City of Bluff City v. Morrell*, 764 S.W.2d 200 (Tenn., 1988); *Brown v. Brown*, 198 Tenn. 600; 281 S.W.2d 492 (1955)

(b) This Court's statutory powers are quite limited, if, as the Commissioner insists, the word "bank" in statutes authorizing him to seize and liquidate "state banks" also authorizes him to seize state trust companies, which are not banks either by statutory definition or otherwise. The specific powers that would be vested in this Court upon seizure of a **state bank** by the statutes in the State Banking Act are set out in sub-paragraph (d) below.

(c) When the Commissioner exercises his seizure and liquidating powers over a **state bank**, he is empowered to exercise most such powers on his own statutory authority and at his own peril, without any pre-condition of obtaining judicial approval, including the power to possess the **state bank** by making findings and posting his notice (of which a copy must be filed with the Clerk and Master in that county), by T.C.A. § 45-2-1502(a) and (b)(1), to exercise all of the **state bank's** powers and functions including hiring and paying the necessary personnel and installing and delegating his powers to a receiver, by T.C.A. § 45-2-1502(b)(2), to promptly transfer its fiduciary positions (in the event of liquidation, *if* the **state bank** has fiduciary powers) to a qualified successor by T.C.A. § 45-2-1504(c), to make initial decisions as to validity of claims owed by the **state bank** to creditors, depositors, and other claimants by T.C.A. § 45-2-1504(f), to make disbursements upon approved claims by T.C.A. § 45-2-1504(g) in accordance with priorities established by T.C.A. § 45-2-1504(h), and to pay remaining moneys in accordance with the anti-escheat statutes under T.C.A. § 45-2-1504(j) after distributing to all of the **state bank's** stockholders the amounts of their respective interests under T.C.A. § 45-2-1504(i). No statute requires the approval of any court for any of these actions.

(d) The Commissioner is required to file a copy of his seizure order with the clerk and master, as stated above, and later file an inventory of all the **state bank's** assets with that court as required by T.C.A. § 45-2-1502(a)(2), and thereafter, the court served by that clerk is authorized to give certain narrowly-stated approvals or modifications. These powers specifically within this court's jurisdiction in such cases are:

- (i) The power to give *ex parte* approval for the Commissioner to borrow money from the F.D.I.C. for a stated purpose, by T.C.A. § 45-2-1502(c)(2);
- (ii) The power to give or withhold approval of the Commissioner's decisions to sell part of the bank's property worth over \$500.00, to

compromise any claim against the bank for more than \$500.00, and to make advance payment of any particular claim against the bank, under T.C.A. § 45-2-1504(a)(1)-(3);

(iii) The power to grant the Commissioner an extension beyond the 6-month statutory period allowed for him to rule upon the validity of claims by T.C.A. § 45-2-1504(f),

(iv) After the Commissioner has filed with the Court a schedule of his rulings upon claims filed against the bank, the power to fix the time for hearings, hold such hearings, and rule upon any exceptions filed to the denial of claims, by T.C.A. § 45-2-1504(g), and

(v) To rule upon the final accounting submitted by the Commissioner with the Court as authorized by T.C.A. § 45-2-1504(k).

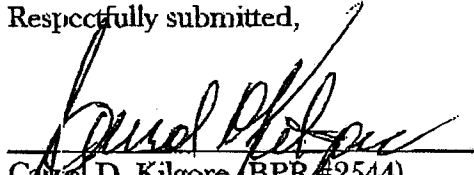
(e) Under the authorities cited in sub-paragraph (a) of this paragraph, the Court's jurisdiction is limited to those narrow and specific orders the statute authorizes the Court to enter, designed to give the Commissioner freedom in dealing with banks without the restraining effects of judicial oversight, and does not include any of the powers the Commissioner here asks the Court to exercise, such as paying his appointees and those of his receiver by delegation pursuant to statute, and does not include such matters as exercising his discretion in making payments other than those so provided, and the Commissioner, in giving his instructions to his appointed receiver, has no lawful authority to expand any court's jurisdiction, which is an inherently legislative power whose exercise by any member of the executive department of government is constitutionally forbidden, Constitution of Tennessee, Art. II, § 2.

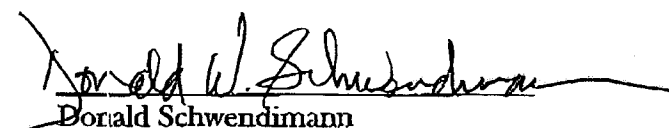
(f) The exercise of the powers actually exercised by the Commissioner without lawful authority constitutes an unlawful taking of rights of Sentinel Trust Company, its owners and its directors other than by the law of the land, and without due process of Tennessee law, in violation of the Constitution of Tennessee, Art. I, § 8 and Art. XI, § 16, and the Constitution of the United States, Fifth Amendment and Fourteenth Amendment, § 1.

4th: Objecting parties object to the request for payment of fees and expenses of the Receiver and its attorneys and agents because the source of funds sought to pay these invoices are funds held in trust for bond holders. Payment of invoices for any of the services listed in the request for payment must legally come from funds of Sentinel Trust Company, itself, not trust funds, or the Department of Financial Institutions, a fee-supported department of the state of Tennessee.

5th: Objecting parties specifically object to the request to approve invoices for Wyatt, Tarrant & Combs for December 1, 2004, through December 31, 2004, in the amount of \$27,626.30; invoices for Waller, Lansden, Dortch & Davis for November 1, 2004, through November 30, 2004, in the amount of \$14,111.77; and invoices for James A. Skinner for December 1, 2004, through December 31, 2004, in the amount of \$1,260.00. Invoices for Wyatt, Tarrant & Combs for December 1, 2004, through the end of the month totaling \$27,626.30, billed at the rate of \$175.00 per hour, yield an improbable 158 hours billed when the business of Sentinel Trust Company had already been given away, to say nothing of the typical abbreviated work period for December because of holidays. Objecting parties specifically object to any invoices being paid to Waller, Lansden, Dortch & Davis and to James A. Skinner on the grounds that both the firm and the individual previously represented Sentinel Trust Company and their actions in now representing the Receiver pose a conflict of interest.

Respectfully submitted,


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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing brief has mailed this March 14th, 2005, postage prepaid, to the following:

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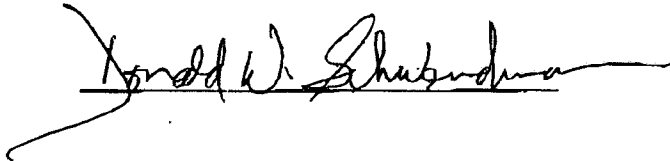
A handwritten signature in dark ink, appearing to read "Donald W. Hubbard", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

EXHIBIT 4

**IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE**

In re:

SENTINEL TRUST COMPANY

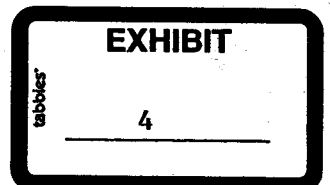
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Objections of Danny N. Bates, et al.,
to Motions of Receiver for
Approval of Expenditures and Disbursements re:
Fort Pierce, Florida and Hernando County, Florida
and Tarrant County, Texas Bond Issues

These objections are made by Danny N. Bates, Clifton T. Bates, Howard H. Cochran, and Gary L. O'Brien, in their capacities as duly-elected and serving Directors of Sentinel Trust Company, Danny N. Bates, who owns most and controls all outstanding stock in the said corporation, and by Sentinel Trust Company itself (to such extent as Sentinel's directors may retain authority to defend it against its attempted destruction by the Tennessee Commissioner of Financial Institutions), all hereinafter collectively referred to as "Respondents," and make the objections set out below to the aforementioned motions noticed for hearing for February 28, 2005:

1. Each of the motions recognizes the correct amount of the semi-annual fees due Sentinel Trust Company (under its statement of fees and charges) pertaining to the two issues, these fixed and unchanging semi-annual amounts being \$9,193.75 per half-year for Ft. Pierce and \$6,250.00 per half-year for Hernando County (Ft. Pierce Motion, Ex. B, p. 2, and Hernando Motion, Ex. B, p. 2), and \$18,884.38 for Tarrant County (Tarrant Motion, Ex. B, p. 2) but the Receiver otherwise fails to honor the schedule of fees and charges contractually binding upon Sentinel and each of the bond-issuers for which it acts as trustee.

2. Each overdrafted bond issuer incurred charges for overdrafts caused by the



expenditures for its collections in excess of cash held in its names, this including a monthly charge of 1½%, added to the overdraft and compounded monthly, which, upon eventual realization of a profit, is divisible pro-rata among all non-defaulted bond-issuers whose moneys from the bond pool were used in collection costs. Under the terms of such contracts and schedule, the order of priority in entitlement to a bond-issuer's liquidated collateral was 1st, repayment of the full cost of collections including attorney fees and court costs, 2nd, restoration to the pooled funds of the full amount of that bond-issuers's overdraft, including compounded monthly charges for the benefit of the owners of the pooled funds, 3rd, reservation for future payment to Sentinel of all fees pertaining to such defaulted issue as obligations (paid into and held in the pooled funds for future fee disbursement), and 4th, pro-rata disbursement of all remaining funds among the bondholders of the defaulted issue's bonds.

3. There was previously filed in the Davidson County Chancery Court, in support of a petition filed therein in relation to *certiorari* proceedings an affidavit of Danny Bates, marked therein as "Exhibit H", a copy of which is attached hereto as so marked, which included an Affidavit Exhibit A, a listing of all overdrafted bond trust accounts from Sentinel records; among these were the amounts of overdrafts on defaulted bond accounts, including the 1½% monthly compounded charges, as of May 11, 2004, which reported such balances through the end of April, 2004. Such Affidavit Exhibit A showed the overdraft charges through April to be \$305,209.87 for Ft. Pierce, \$739,588.12 for Hernando County and \$871,480.98 for Tarrant County. Applying the 1½% per month, compounded, for the 8 months through December, 2004, would add to each 12.648926%, being \$38,605.77 for Ft. Pierce resulting in a total of \$343,815.64 for it, an added charge for Hernando County of \$93,549.95, for a total of \$835,138.07, and an added charge of \$110262.90 for Tarrant County, for a total of \$981,713.96.. Therefore, the three in combination should increase the pool funds by \$2,1158,667.67.

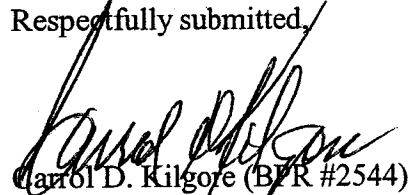
4. By failing to adhere to such contractually-established charges, the Receiver proposes to "pay back"—whether by book entries or actual monetary transfers does not appear to be stated—\$444,747.29 for Hernando County (Hernando Motion, p. 4), and \$130,468.89 for Ft. Pierce (Ft. Pierce Motion, p. 3), and \$390,040.70 for Tarrant County totaling \$965,256.88 (Tarrant County Motion, p. 4), being an underpayment by the receiver into the pooled fund balance of \$1,193,410.97. This is essentially a conversion of moneys belonging to the non-defaulting bond-issuers which

collectively own moneys within the pooled funds for the benefit of their bondholders.

WHEREFORE, these parties OBJECT to the grant of such motion, and respectfully suggest that the Court should withhold all approval until the Receiver shall have shown the segregation and payment into the pooled funds of the arrearage due from each of the bond-issuer accounts, and the retention of actual disbursement of all earned fees unless and until the total collected compounding charges against the defaulted bond-issuers shall be adequate to restore the pooled-fund account to a positive balance.

These parties will be represented in courtroom presentation of these objections by local co-counsel.

Respectfully submitted,



Carol D. Kilgore (BFR #2544)
Attorney for Objecting Parties
227 Second Avenue, North
Nashville, Tennessee 37201-1693
(615) 254-8801

Donald Schwendimann
Local Co-Counsel
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Hohenwald, TN 38462

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing brief has hand-delivered this February 25, 2005, postage prepaid, to the following:

JANET M. KLEINFELTER, ESQ.
Financial Division
Attorney-General of Tennessee
425 Fifth Avenue, North
Nashville, Tennessee 37243.

Graham Matherne, Esq.
WYATT, TARRANT & COMBS
2525 West End Avenue
Nashville, TN 37203-1423

and has been mailed by first class mail to :

Larry Stewart
Stokes, Bartholomew, Evans & Petree
424 Church Street, Suite 2800
Nashville, TN 37219

David D. Peluso
106 East Main Street
Hohenwald, TN 38462

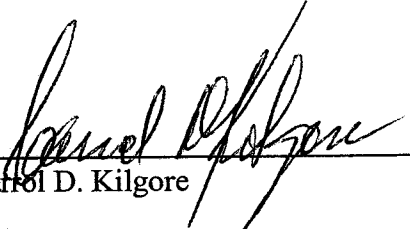
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Carol D. Kilgore

AFFIDAVIT OF DANNY N. BATES

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

BEFORE ME the undersigned authority, on this day personally appeared Danny N. Bates, who after being by me duly sworn, upon his oath deposed and stated the following:

1. My name is Danny N. Bates, a resident of Lewis County, Tennessee, and I am over 18 years of age, and fully competent to make this Affidavit. I have personal knowledge of the facts stated herein.

2. I have read the transcript of the hearing in Lewis County Chancery Court on July 12, 2004, wherein Graham Matherne, Attorney for the Receiver stated that Sentinel's monthly fee entitlement for June, 2004, was "twenty-five to thirty thousand dollars as noted in the petition" (Hearing transcript page 10) and that such fees were "ever dwindling as we move forward" (Hearing transcript page 6).

3. While I had previously made an estimate from recollection that the fees receivable in each June and December should be around \$90,000, I have subsequently found reports in previous Board minutes showing that the June, 2004 fees should have been approximately \$73,437.50, excluding termination fees and default administration fees and charges.

4. The only way such a small amount as \$24,000 could be credited to Sentinel as earned fees in June, 2004, is to fail to include some of the fees, which fees, payable as earned, should have been as follows:

Corporate Trust Administration Fees:	
Performing Accounts	\$17,243.75
Defaulted Accounts, with Cash	\$25,881.25

Defaulted Accounts in Overdraft	\$16,312.50	
Sub-total, Corporate Trust	\$59,437.50	
Municipal Agencies:	\$14,000.00	
Total Current Fees Receivable		\$73,437.50

5. The foregoing fees do not include overdraft charges at the rate of 1.5% per month on overdrafts in defaulted bond issues and do not include other, earned default administration charges and fees and termination fees, for which alone there should have been about \$35,712.50 in fees receivable. This means a total that should have actually been payable to Sentinel for June of the \$73,437.50 + \$35,712.50 less the \$16,312.50 in fees on the overdraft status accounts which, though credited as receivable cannot be actually withdrawn due to the overdraft, thus totaling about \$92,837.50 in withdrawable fees.

6. With further reference to the transcript of the hearing in the Lewis County Chancery Court on July 12, 2004, I noted that Attorney Matherne reported to the Court, "Most specifically, Your Honor, the receivership has received fees, Sentinel fees that had been charged on a particular bond default (emphasis added). And we are in possession of those fees now." To my recollection, Sentinel Trust Company did not carry any default charges on its corporate books for defaulted bond issues, carrying them instead on the books of the Trust Department for final credit to the so-called pooled account #4049233 at SunTrust Bank as trust funds. It is my understanding and Sentinel's past practice that any use of funds properly to be credited to the Trust Department account would be a conversion or misappropriation of trust funds since the receivable did not belong to Sentinel Trust Co. until such time as all defaults have been cleared up.

7. In addition, Attorney Matherne (Hearing transcript page 2) stated, "...fees taken and realized from the bringing in of defaulted bond recovery efforts are assets of the receivership estate, or assets of the Sentinel receivership." To the contrary, it is only assets carried on Sentinel's corporate books which may be treated as "assets of the Sentinel receivership" and any assets carried on the books of the Trust Department are and must be treated as trust funds, which may not be used

for corporate purposes.

8. I lack information sufficient to identify the source and character of these bond default fees but believe they may have arisen from one or more defaulted bond issues, the receipt of funds against prior receivable should have been treated as deposits into the trust account #4049233 with SunTrust Bank and should not have been available for payment of receivership fees and expenses.

Attached hereto as **Exhibit A** is a listing of Trust Department Receivables as of May 11, 2004, funds from the collection of which in toto should be or have been deposited into the SunTrust Bank account #4049233 (the "pooled" account) upon collection. All these items should be treated as trust funds except for those items mirrored on Sentinel's corporate books as an account receivable and similarly carried on the Trust Department's books as an account payable to Sentinel Trust Company for earned fees.

9. With reference to the Commissioner's and Receiver's application in the aforesaid Hearing for approval of transfer of mostly State and Local Government Securities ("SLGS") required by Federal statutes and regulations to be used only for the payment of particular defeased bond issues, inasmuch as all of the proceeds of those bonds must be paid to the bondholders of those named issues, the only real benefit to any purchaser of Sentinel accounts in being able to receive control of those bond accounts is the value of the fees to be earned. The total amount of such fees related to the named accounts will be about \$18,368.75, with about \$4,771.25 receivable in 2004, \$7,517.50 in 2005, and \$6,080.00 in 2006. The brief terms that these issues have remaining and the fee amounts which must seem paltry and or trivial in comparison to the total amounts of money that corporate fiduciaries must deal with could surely not be important factors in any competitor's determination in whether to bid for Sentinel's trust business.

10. There appears to me to be an unnecessarily frantic rush by the Commissioner and his receiver to seek legitimization of the sale of Sentinel's trust business and to obtain some judicial approval to justify paying expenses from trust funds in order to fund their destruction of Sentinel Trust Company.

12. Virtually all of the municipal bond agencies handled by Sentinel Trust Company as bond registrar and paying agent deliver funds to meet scheduled payments to bondholders on one day prior to or as long as a week before the appointed principal and interest payment dates. To my recollection, it is only the City of Colquitt, Georgia, the Huntsville Utility District of Scott County, Tennessee and the City of Oglethorpe, Georgia out of all the hundred or so municipal agencies which customarily sent in monthly installments of principal and interest next coming due. Most of their monies were held invested in United States Treasury Bills. There should, consequently, be little or no impact on the balance of funds held in the SunTrust Bank account #4049233, the so-called "pooled" fund, on June 1, 2004 or in any other month of any other year.

13. Most of the performing indenture trusts (that is to say, those trusteeships not in default status) serviced by Sentinel Trust Company provide monthly payments in amounts equal to one-sixth of the interest next coming due and one-twelfth of the principal next coming due together with one month's fee accrual and, in some cases, monthly installments for deposit into other required funds, such as Working Capital, Insurance and Tax, and Maintenance and Replacement Reserve funds. Such receipts are deposited into the SunTrust Bank account #4049233 and properly credited to the referenced accounts and sub-accounts of each such bond issuer. On information and belief, there are about three and one-half dozen such accounts, delivering approximately \$200,000 per month (that is, \$1.2 million during every six-month period) for deposit into the SunTrust Bank account to be held and/or invested pending timely payment and distribution to bondholders of each such issue at their scheduled semi-annual payment dates. These are trust funds and are not and have never been part of Sentinel's corporate assets. The fee portion, if any of such monthly deposits, are contractually earned and payable to Sentinel at the end of each such semi-annual payment cycle applicable to each such indenture trusteeship.

14. To my recollection, there is an average of about \$3 million in principal and interest payable each month on bonds of such indenture trusteeships. Only a portion of such payments are required to be funded with monthly installments however, some being payable only a day or so in

advance of scheduled bond payment dates. Consequently any reduction in account balances held in the SunTrust Bank account #4049233 at the end of one month would be replenished by monthly installments delivered in subsequent, post-payment date deposits. From recollection, I estimate the monthly fluctuation in the 4049233 account balance would be approximately \$600,000, plus or minus, based on an average distribution of semi-annual payment dates. There should, consequently, be little or no lasting impact on the balance of funds held in the SunTrust Bank account #4049233, the so-called "pooled" fund, on June 1, 2004 or in any other month of any other year.

15. I swore to the certiorari petition, although it may have been unintentionally misleading in its Paragraph 18 in literal reading as pointed out in the Commissioner's answer to the petition, being as follows:

"Sentinel earned fees under its contracts regarding every bond issue not in default, and when the excessive withdrawals became necessary, while periodic checks were issued to Sentinel, it retained some of them uncashed so that for each such uncashed check, the cash remained in the 'pooled trust fund' as security against inadequate liquidity. On the date the Respondent Commissioner seized possession of Sentinel properties, the total of such uncashed checks held by Sentinel, to assure adequate liquidity, was approximately \$2,600,000.00."

The approximately \$2.6 million was in a category of checks to be printed which were never printed, in that their non-negotiation "covered" the lengthy but temporary cash-flow shortage. They were entered on the books as paid, so that the remaining cash on hand would reflect the amount of cash that *should be available* considering checks that should have been issued but were not yet negotiated. At the same time, the computer records contained a list of checks not yet issued, and a computer report of unissued checks would include all these individual checks awaiting printing, but which, for cash flow purposes, cannot instantly be issued until cash inadequacy is overcome.

16. Contrary to the answer to our Petition for Certiorari, the petition did not allege that the actual amount of monetary shortage (pending collection from defaulted issues) couldn't be determined, but only that it was "impossible, *without extended labor*, to compute the total amount by which each bond fund's charges exceed withdrawn amounts by *such mathematical methods*, and *such effort would have no purpose*, but the cumulative 'overdraft' balance is far greater than the

money utilized from the pooled fund to carry out Petitioner's fiduciary responsibilities." (Petition, Paragraph 17; emphasis added). The reason that computation by such *mathematical methods* would be extremely difficult is because of the simple compounding factor that differs in effect every month, and because this would require a month-by-month review of every one of the over 60 defaulted issues, and the "overdraft" or "receivables" balances include the compound interest factors on defaulted issues still open, but on the closed defaulted issues (those on which no further collection is possible) there may have been a write-off of a portion of the 1½% monthly charge.

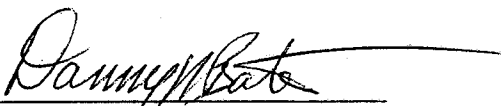
17 However, the actual cash shortage while awaiting total collections from the defaulted issues is very easy to compute at the end of any month. That is true because, as alleged in the petition, each account with a cash balance is credited each month with its earnings at the actual SunTrust rate. Therefore, simply by totaling these, it can be determined the total amount of cash that **should be** in the pooled account, and by simply subtracting this from the actual cash per SunTrust records, after reconciliation of the bank statement, reflects (if a negative balance) the exact amount of the cash shortage to be made up through legal collection work followed by a cash payment by Sentinel at the end to cover any of its obligation. Equally, at the end, after all collection efforts shall have been completed, if this computation shows a positive balance, that will be the exact amount of profit made for the bond funds from the 1½% compounded monthly charge after deducting collection costs. Such a computation shows that as of the end of March, 2004, the total cash that should have been in the "pooled cash fund" was \$13,842,844, the amount actually there was \$10,675,166, leaving a deficiency at that time of \$3,167,678, to be made up from completion of collection efforts, deduction from Sentinel's earned but unpaid fees, plus any required cash contribution by Sentinel.

18 Totally omitted by the Commissioner from both his charges and the answer to the Petition, Sentinel had both part of its owners' and all of Sentinel's assets available to cover the eventual shortage, if any, plus a written loan commitment for \$1,000,000.00 from the Bank of Nashville, as well as the contractual fees to be earned from trust business on hand of over \$9,000,000.00 available to assure solvency at the end of the collection process. The examiners were

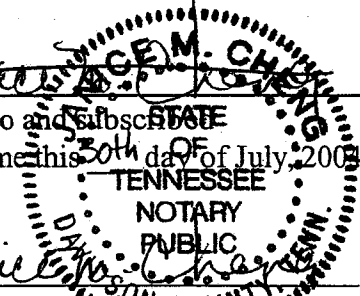
provided the records they wanted, and any questions they asked were answered to the extent that we had the knowledge. Of course, we were not given a hearing on written charges before the Commissioner made his seizure and liquidation decisions. Indeed, when we were summoned to come before the Commissioner on two prior occasions when this occurred, our advice from counsel representing us, Waller, Lansden, Dortch & Davis, was to respond only to direct questions and otherwise, let the attorneys do all the talking.

19. I am the President and Chief Executive Officer of Sentinel Trust Company and its principal shareholder. The facts stated herein are true and correct except for such as are identified as being estimated computations or being based on information and belief, all of which I believe to be true on the basis of such computation, information, of other indicated source.

FURTHER THE AFFIANT SAITH NOT.



Danny N. Bates


Sworn to and subscribed
before me this 30th day of July, 2008.
Tennessee
NOTARY
PUBLIC
Notary Public
My Commission Expires: 5-22-08

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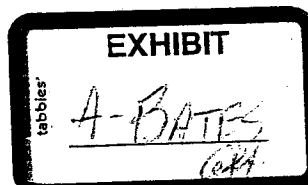
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Trust Dept QbkE Control Account

Open Invoices

As of May 11, 2004

Type	Date	Num	P. O. #	Terms	Due Date	Aging	Open Balance
Aircraft Leasing & Funding Co							
Invoice	1/1/04	1494		Due on r...	1/1/04	131	150,982.70
Total Aircraft Leasing & Funding Co							150,982.70
Atoka, Tipton Co, Tennessee							
Invoice	5/11/04	RP10...			5/11/04		436.85
Total Atoka, Tipton Co, Tennessee							436.85
Benton County, Tennessee							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		250.00
Total Benton County, Tennessee							250.00
Camden, Tennessee							
Invoice	5/11/04	RP10...			5/11/04		2,425.00
Total Camden, Tennessee							2,425.00
Cave Springs, GA Series 1994							
Invoice	1/1/04	1509		Due on r...	1/1/04	131	46,491.87
Total Cave Springs, GA Series 1994							46,491.87
Cave Springs, GA Series 1996							
Invoice	1/1/04	1510		Due on r...	1/1/04	131	42,609.16
Total Cave Springs, GA Series 1996							42,609.16
City of Adamsville							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		1,739.52
Total City of Adamsville							1,739.52
City of Brighton							
Invoice	5/11/04	RP10...			5/11/04		625.84
Total City of Brighton							625.84
City of Hohenwald							
Invoice	5/11/04	RP10...			5/11/04		676.08
Total City of Hohenwald							676.08
City of Livingston							
Invoice	5/11/04	RP10...			5/11/04		411.25
Total City of Livingston							411.25
City of McKenzie							
Invoice	5/11/04	RP10...			5/11/04		1,020.34
Total City of McKenzie							1,020.34
City of Millersville							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		355.12
Total City of Millersville							355.12
City of Waynesboro							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		366.81
Total City of Waynesboro							366.81
Crab Orchard Utility District							
Invoice	5/11/04	RP10...			5/11/04		653.80
Total Crab Orchard Utility District							653.80
Dade City, FL Series 1996							
Invoice	1/1/04	1508		Due on r...	1/1/04	131	184,780.38
Total Dade City, FL Series 1996							184,780.38
Dekalb County, TN							
Invoice	5/11/04	RP10...			5/11/04		500.00



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Trust Dept QbkE Control Account

Open Invoices

As of May 11, 2004

Type	Date	Num	P. O. #	Terms	Due Date	Aging	Open Balance
Total Dekalb County, TN							500.00
Dublin, GA Series 1994							
Invoice	1/1/04	1507		Due on r...	1/1/04	131	81,740.68
Total Dublin, GA Series 1994							81,740.68
Ft Pierce, Fla Lyford Cove							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	2,183.81
Invoice	5/11/04	OD10...		Due on r...	5/11/04		303,116.06
Total Ft Pierce, Fla Lyford Cove							305,299.87
Grundy County, Tennessee							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		2,909.38
Total Grundy County, Tennessee							2,909.38
Hernando Co, Fla Tangerine Cove							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	298.05
Invoice	5/11/04	OD10...		Due on r...	5/11/04		739,260.07
Total Hernando Co, Fla Tangerine Cove							739,558.12
Highlands Co, Fla Series 1994							
Invoice	1/1/04	1506		Due on r...	1/1/04	131	113,625.37
Total Highlands Co, Fla Series 1994							113,625.37
Jackson HEFB Series 89							
Invoice	1/1/04	1504		Due on r...	1/1/04	131	104,936.34
Total Jackson HEFB Series 89							104,936.34
Jackson HEFB Series 93							
Invoice	1/1/04	1505		Due on r...	1/1/04	131	44,783.99
Total Jackson HEFB Series 93							44,783.99
Jacksonville Series 94							
Invoice	1/1/04	1502		Due on r...	1/1/04	131	53,292.73
Total Jacksonville Series 94							53,292.73
Jacksonville Series 96							
Invoice	1/1/04	1503		Due on r...	1/1/04	131	225,485.91
Total Jacksonville Series 96							225,485.91
Jefferson Co, AR							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	4,434.74
Invoice	5/11/04	OD10...		Due on r...	5/11/04		497,801.86
Total Jefferson Co, AR							502,236.60
Jose Eber Salons Inc							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	18.11
Invoice	5/11/04	OD10...		Due on r...	5/11/04		131,708.23
Total Jose Eber Salons Inc							131,726.34
Lawrence County, TN							
Invoice	5/11/04	RP10...			5/11/04		38.97
Total Lawrence County, TN							38.97
Lee Co, AL Industrial Dev Auth							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	5,062.50
Invoice	5/11/04	OD10...		Due on r...	5/11/04		578,847.08
Total Lee Co, AL Industrial Dev Auth							583,909.58
Liberty Co, GA Midway							
Invoice	1/1/04	1492		Due on r...	1/1/04	131	57,489.31
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	187.50
Invoice	5/11/04	OD10...		Due on r...	5/11/04		42,393.48

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Trust Dept QbkE Control Account

Open Invoices

As of May 11, 2004

Type	Date	Num	P. O. #	Terms	Due Date	Aging	Open Balance
Total Liberty Co, GA Midway							100,070.29
New Market Utility District							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		408.10
Total New Market Utility District							408.10
Newton Co, GA Series 1989							
Invoice	1/1/04	1493		Due on r...	1/1/04	131	101,148.42
Total Newton Co, GA Series 1989							101,148.42
North Utility District							
Invoice	5/11/04	RP10...			5/11/04		250.00
Total North Utility District							250.00
Northstar Financial Corp							
Invoice	1/1/04	1495		Due on r...	1/1/04	131	607,673.72
Total Northstar Financial Corp							607,673.72
Ray & Ross Transport, Inc.							
Invoice	1/1/04	1496		Due on r...	1/1/04	131	502,820.33
Total Ray & Ross Transport, Inc.							502,820.33
Roane Co, TN HEFB Marshall Voss Prj							
Invoice	1/1/04	1501		Due on r...	1/1/04	131	113,692.34
Total Roane Co, TN HEFB Marshall Voss Prj							113,692.34
Rome-Floyd Co, GA Series 1996							
Invoice	1/1/04	1500		Due on r...	1/1/04	131	79,680.19
Total Rome-Floyd Co, GA Series 1996							79,680.19
Rusk Co HFC Texas Choice							
Invoice	5/11/04	OD10...		Due on r...	5/11/04		80,750.03
Total Rusk Co HFC Texas Choice							80,750.03
Sentinel Trust Co.							
General Journal	4/7/00	5402		Due on r...			-60,392.10
Invoice	12/31/99	ADJ01		Due on r...	12/31/99	1593	60,392.10
Total Sentinel Trust Co.							0.00
Sullivan Co, TN Kingsport Sr Living Proje							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	3,843.75
Total Sullivan Co, TN Kingsport Sr Living Proje							3,843.75
Sumner Co, TN HEFB Series 1989							
Invoice	1/1/04	1499		Due on r...	1/1/04	131	83,146.99
Total Sumner Co, TN HEFB Series 1989							83,146.99
Tarrant Co, TX Comm Hlth Fdn Series 91							
Invoice	1/1/04	1490		Due on r...	1/1/04	131	265,145.10
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	1,423.05
Invoice	5/11/04	OD10...		Due on r...	5/11/04		604,912.83
Total Tarrant Co, TX Comm Hlth Fdn Series 91							871,480.98
Toombs Co-Vidalia, GA Series 1997							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	3,874.63
Total Toombs Co-Vidalia, GA Series 1997							3,874.63
Town of Pikeville							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		500.00
Total Town of Pikeville							500.00
Town of Spencer							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		250.00

5:29 PM

05/11/04

Trust Dept QbkE Control Account

Open Invoices

As of May 11, 2004

Type	Date	Num	P. O. #	Terms	Due Date	Aging	Open Balance
Total Town of Spencer							250.00
Tri-Star Financial Corp							
Invoice	1/1/04	1497		Due on r...	1/1/04	131	539,147.12
Total Tri-Star Financial Corp							539,147.12
Walton Co, Fla Series 1996							
Invoice	1/1/04	1498		Due on r...	1/1/04	131	317,252.77
Total Walton Co, Fla Series 1996							317,252.77
Warren County Utility District							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		1,461.44
Total Warren County Utility District							1,461.44
Washington Co, MS M-F Urban Renewal							
Invoice	4/30/04	DA10...		Due on r...	4/30/04	11	6,220.29
Invoice	5/11/04	OD10...		Due on r...	5/11/04		460,454.44
Total Washington Co, MS M-F Urban Renewal							466,674.73
Wayne County, Tennessee							
General Journal	6/19/01	010547		Due on r...			-1,643.43
Invoice	6/1/01	4807		Due on r...	6/1/01	1075	650.10
Invoice	6/1/01	4810		Due on r...	6/1/01	1075	601.32
Invoice	6/1/01	4813		Due on r...	6/1/01	1075	392.01
Total Wayne County, Tennessee							0.00
Woodlawn Utility District							
Invoice	5/11/04	RP10...		Due on r...	5/11/04		250.00
Total Woodlawn Utility District							250.00
TOTAL							<u><u>7,198,244.43</u></u>

EXHIBIT 5

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
PART I

SENTINEL TRUST COMPANY, and)
its Directors, Danny N. Bates,)
Clifton T. Bates, Howard H.)
Cochran, Bradley S. Lancaster,)
and Gary L. O'Brien,)

Petitioners,)

VS.)

NO. 04-1934-I

KEVIN P. LAVENDER,)
Commissioner Tennessee)
Department of Financial)
Institutions,)

Respondent.)

MEMORANDUM and ORDER

This case is before the Court on motion requesting the Court issue a writ of supersedeas.

This case involves a challenge to the seizure of a financial institution by the Commissioner of the Tennessee Department of Financial Institutions. The petitioner is a state-chartered trust company. The Commissioner, having already seized the company and placed the business into receivership, is now moving to liquidate the business. The Commissioner filed his notice of liquidation on June 18, 2004. The receivership is pending in the Lewis County Chancery Court, and the notice of liquidation was filed in that court. The petitioner filed a petition for writ of certiorari in

EXHIBIT

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this Court pursuant to T.C.A. § 45-2-1502(c)(1). That statute states:

(c)(1) If, in the opinion of the commissioner, an emergency exists which will result in serious losses to the depositors, the commissioner may take possession of a state bank without a prior hearing. Any person aggrieved and directly affected by this action of the commissioner may have a review by certiorari as provided in title 27, chapter 9.¹

In turn, the appropriate provision of title 27, chapter 9 states:

§ 27-9-106. Supersedeas - (a) If the order or judgment rendered by such board or commission made the basis of the petition for certiorari shall make any material change in the status of any matter determined therein, the petitioner may, upon reasonable notice to the board or commission and other material defendants, apply to the chancellor, at the time of filing such petition, for a supersedeas, and the chancellor, in the chancellor's discretion, may grant a writ of supersedeas to stay the putting into effect of such order or judgment or any part thereof.

(b) No such supersedeas shall be granted until a good and sufficient bond, in an amount to be fixed and approved by the chancellor, shall have been given by the petitioner, conditioned to indemnify the defendants named in the petition from any injury that may result by reason of the granting of such supersedeas.

The petition was filed on June 29, 2004. On July 16, 2004, the petitioner filed a motion for expedited hearing on the petition for supersedeas. Because of a scheduling problem, the Chancellor of Part I referred this motion to the undersigned to sit by interchange, and by Order entered August 2, 2004, the

¹ These statutes (T.C.A. § 27-9-101 et seq.) are titled "Review of Boards and Commissions." See also T.C.A. § 45-1-108(a).

Court set the motion for writ of supersedeas for a hearing on August 5, 2004. The hearing was held as scheduled.

The petitioners explained at the hearing that the Commissioner has no authority under the banking laws to seize a trust company and that this Court should therefore issue the writ of supersedeas and return control of the company to its Board of Directors. The request for supersedeas was made solely based on a statutory and constitutional argument that the seizure and liquidation was beyond the legal power of the Commissioner.²

The record in this case indicates that since 2000 the Commissioner has been concerned about the financial well being of Sentinel Trust Company, and in April 2004, the Department was of the opinion that the company had a net cash shortage in excess of \$5,000,000.00. This concern led to several meetings between the Commissioner and executives and lawyers from Sentinel. On May 3, 2004, the Commissioner issued an order requiring Sentinel to make a substantial cash infusion by May 17, 2004 to replenish the cash deficiency and to submit to the Commissioner a capital plan.

² Prior to the August 5, 2005 hearing, the Court met with counsel and offered to consolidate the hearings on the request for supersedeas with the review by certiorari and schedule it within 7-10 days so, that all issues before the Court could be resolved. The respondents lawyer indicated that she thought the Commissioner would agree to stop the liquidation until a final hearing, but counsel for petitioners stated that he wished to proceed on his immediate request for writ of supersedeas as he was convinced that the Commissioner was acting beyond his statutory authority.

When the petitioners did not respond to the satisfaction of the Commissioner, events were set in motion as follows:

1. On May 3, 2004, the Commissioner issued a cease and desist order pursuant to T.C.A. § 47-1-107(a)(5), requiring certain financial actions by Sentinel. The petitioners subsequently filed an administrative appeal of the cease and desist order. Events have long since passed that stage, however, and the administrative appeal may now be moot.

2. On May 18, 2004, the Commissioner took emergency possession of Sentinel pursuant to T.C.A. §§ 45-2-1502(b)(1) and (c)(1). The receivership was filed in the Lewis County Chancery Court as case number 4781. The record reflects that the parties believe that only this Court has jurisdiction over this challenge to the liquidation. This Court is not so sure.

It makes little sense for the receivership to be in Lewis County and yet the challenge to the seizure and liquidation go to another. The statutes do not seem to mandate such severance of issues. It appears to this Court that the entire statutory scheme contemplates that issue related to the receivership, seizure, and termination all be in the same court - not two (2) courts. In fact, in order for the liquidation to go forward, it must be approved by the Lewis County Chancery Court. See T.C.A. § 45-2-1502(c)(2). The only mention of Davidson County Chancery Court is the authorization of the Commissioner to seek an

injunction to enforce the law under T.C.A. § 45-1-107(a)(5) only in Davidson County. Review under Title 27, Chapter 9 pursuant to T.C.A. § 45-1-108 is not confined to Davidson County Chancery but can be filed in any chancery or circuit court. See T.C.A. §§ 27-9-102 and 103.³

3. On May 18, 2004, the Commissioner appointed Receivership Management, Inc. to act as receiver. See T.C.A. § 45-2-1502(b)(2).

4. In June 2004, Department personnel issued a report stating that Sentinel had a deficiency in excess of \$7,500,000.00 and that Sentinel was operating at a loss and only had corporate assets of around \$1,400,000.00. The report concluded that Sentinel was insolvent.

5. On June 18, 2004, in light of the above and pursuant to T.C.A. §§ 45-2-1502(c)(2) and 1504, the Commissioner issued a Notice of Liquidation of Sentinel Trust Company. As already noted, the notice was filed in the Chancery Court for Lewis County. That notice recites the factual contentions of the Commissioner and concludes:

³The Court is aware of the holding in Tennessee Real Estate Commission v. Potts, 428 S.W.2d 794 (Tenn. 1968) that normally the review of an administrative decision of a Board or Commissioner should be filed in Davidson County. The Court doubts the efficacy of that decision when the Commissioner has already invoked the jurisdiction of the local Chancery Court on the same subject matter as the certiorari proceeding.

Accordingly, the Commissioner has determined that liquidation of Sentinel Trust Company in accordance with the provisions of Tenn. Code. Ann. §§ 45-2-1502(c)(2) and 1504 is necessary and appropriate.

Any person aggrieved or directly affected by the Commissioner's determination to liquidate Sentinel Trust Company may have judicial review in Davidson County Chancery Court by common-law writ of certiorari, as provided in Title 27, Chapter 9 of Tennessee Code Annotated, pursuant to Tenn. Code Ann. § 45-1-108(a).

6. The petitioners on June 29, 2004 filed a complaint titled "Petition for Writ of Certiorari and for subsequent Writ of Supersedeas."

7. On July 16, 2004, the petitioners filed a "Motion For Expedited Hearing on Petition For Supersedeas" requesting a hearing be set and that a writ of supersedeas be issued after the hearing.

The motion by petitioners seeks the writ of supersedeas because "Sentinel Trust Company is not a bank, and has none of the characteristic attributes of a bank" and that the statutory powers the Commissioner exercised only apply to a bank and therefore the Commissioner has acted "illegally" and "wholly outside his administrative and policing authority." The motion further states that "unless the writ of supersedeas shall be issued promptly to nullify the respondent Commissioner's past illegal acts, he soon will have succeeded in destroying Sentinel Trust Company." The petitioner recites "the urgency of need for nullification of the Commissioner's arbitrary and illegal orders

by supersedeas, so that its business may again be operated by its knowledgeable staff pending final determination."

The lawyer for the petitioners has chosen the battleground. He has chosen to not yet enter the factual fray but has chosen the law as his weapon. He insists that the Commissioner has exceeded his statutory authority. He states emphatically that the statutes used by the Commissioner do not apply to trust companies but only apply to banks. The petitioners are wrong.

Whatever ambiguity there might have been prior to 1999 in the application of the banking laws to trust companies, it was eliminated in 1999. In 1999, the General Assembly amended the Act to specifically make trust companies subject to all of its provisions, not just those pertaining to fiduciaries. Section 3 of Chapter 112 of the Public Acts of 1999 amended T.C.A. § 45-1-124(b) by deleting that subsection and substituting the following:

(b) To the full extent consistent with such rights, liabilities and penalties, all state banks and, to the extent applicable, all banks, shall hereafter be operated in accordance with the provisions of this chapter and Chapter 2 of this title. Unless the Commissioner determines otherwise, the provisions of Title 45, Chapters 1 and 2 and the rules thereof shall apply to the operation and regulation of state trust companies and banks whose purposes and powers are limited to fiduciary purposes and powers.

Section 4 of Chapter 112 further amended Tenn. Code. Ann. § 45-1-124 to add the following new subsection:

() The charter of a trust company granted by the commissioner shall not be void due to enactment of any amendment or repeal of the laws under which it was formed if such trust company is in operation, as determined by the commissioner, on July 1, 1999.

() Companies engaged in activities subject to Title 45, Chapters 1 and 2, on July 1, 1999, but formed, as determined by the commissioner, prior to the enactment of Chapter 620 of the Public Acts of 1980 and not previously subject to regulation by the commissioner may continue to act as a fiduciary without submitting an application. However, such entities shall otherwise be fully subject to Chapters 1 and 2.

() Companies authorized by their charter, prior to the enactment of Chapter 620, to engage in fiduciary activities, but not engaging in fiduciary activities on July 1, 1999, then must file the appropriate application to establish a trust company and then fully comply with Chapter 1 and 2.

() All state trust companies operating on July 1, 1999, shall have such period of time as the commissioner determines to be reasonable and prudent to conform to the requirements of Chapter 1 and 2 and the regulations thereunder, but such period shall not exceed three (3) years from July 1, 1999. During this period of time, to conform to the requirements of Chapter 1 and 2, the commissioner may conduct examinations at such company's expenses, and apply the requirements of Chapters 1 and 2 as deemed appropriate.

These provisions of Chapter 112 make it clear the General Assembly's intent that all of Chapters 1 and 2 of Title 45 shall apply to the operation and regulation of state trust companies and that such companies shall fully comply and conform with all

the provisions of these chapters, not just the provisions pertaining to fiduciary activities.'

The Commissioner took possession of Sentinel pursuant to the provisions of Tenn. Code Ann. § 45-2-1502, which provides in part as follows:

- (a) The commissioner may take possession of a state bank if, after a hearing, the commissioner finds:
 - (1) Its capital is impaired or it is otherwise in an unsound condition;
 - (2) Its business is being conducted in an unlawful or unsound manner;
 - (3) It is unable to continue normal operations; or
 - (4) Its examination has been obstructed or impeded.

*

*

*

- (c) (1) If, in the opinion of the commissioner, an emergency exists which will result in serious losses to the depositors, the commissioner may take possession of a state bank without a prior hearing. Any person aggrieved and directly affected by this action of the commissioner may have a review by certiorari as provided in title 27, chapter 9.

Petitioners make the novel argument that because this statute speaks only in terms of a state bank and its depositors and because Sentinel is neither a state bank nor has any deposits/depositors, this statute does not apply to Sentinel and, therefore, the Commissioner acted illegally or exceeded his authority when he took possession of Sentinel pursuant to this statute. This argument is directly contrary, however, to the

*The definition section of the Tennessee Banking Act contains the definitions of "state trust company" and "trust company" at T.C.A. § 45-1-103(27) and (31).

clearly expressed intent of the General Assembly as set forth in Chapter 112. As discussed, supra, that act specifically states that "the provisions of Title 45, Chapters 1 and 2 and the rules thereof shall also apply to the operation and regulation of state trust companies and banks whose purposes and powers are limited to fiduciary purposes and powers." Tenn. Code Ann. § 45-2-1502 clearly is a provision contained within Chapter 2 of Title 45 and, therefore, applies to the operation and regulation of Sentinel Trust Company. As such, the Commissioner acted with express statutory authority in taking possession of Sentinel pursuant to Tenn. Code Ann. § 45-2-1502.

The petitioners also make a secondary argument: that the acts of the Commissioner are unconstitutional. The Court disagrees. Intrusive statutory schemes governing financial institutions have been upheld against constitutional attack. Financial institutions traditionally have been very highly regulated by the government for obvious reasons. If the statutory scheme provides for emergency seizure and/or liquidation, the statute must provide for an immediate post-seizure hearing. The availability of such a hearing is set forth at Tenn. Code Ann. § 45-2-1502(c)(1). There is nothing in this record to indicate that the Chancery Court of Lewis County in the receivership action is not prepared to review all of the Commissioner's actions from the receivership to the seizure to the liquidation. These statutes

granting the Commissioner the powers set forth are constitutional. See, e.g., Fahey v. Mallonee, 332 U.S. 245, 67 S.Ct. 1552 (1947); Anonymous Bank v. Florida Dept. of Banking, 512 So. 2d 1112 (Fla. Dist. Ct. App. 1987). There is nothing contained in the Constitution of Tennessee or Tennessee case law inconsistent with the above conclusion.

In Fahey the court reversed a federal district court that had declared unconstitutional the seizure of a federal savings and loan association. The court emphasized that the statutes were not "penal" but "regulatory".

They deal with a single type of enterprise and with the problems of insecurity and mismanagement which are as old as banking enterprise. The remedies which are authorized are not new ones unknown to existing law to be invented by the Board in exercise of a lawless range of power. Banking is one of the longest regulated and most closely supervised of public callings. It is one in which accumulated experience of supervisors, acting for many states under various statutes, has established well-defined practices for the appointment of conservators, receivers and liquidators. Corporate management is a field, too, in which courts have experience and many precedents have crystallized into well-known and generally acceptable standards.

Fahey, 332 U.S. at 252.

It is complained that these regulations provide for hearing after the conservator takes possession instead of before. This is a drastic procedure. But the delicate nature of the institution and the impossibility of preserving credit during an investigation has made it an almost invariable custom to apply supervisory authority in this summary manner. It is a heavy responsibility to be exercised with disinterestedness and restraint, but in the light of the history and customs of banking we cannot say it is unconstitutional.

Fahey, 332 U.S. at 253-54.

For the reasons expressed, the Court concludes that the Tennessee banking laws contained in Chapters 1 and 2 of Title 45 fully apply to trust companies and that these statutes are constitutional. The factual foundation supporting the emergency seizure and subsequent decision to liquidate was not presented to the Court, and the Court expresses no opinion on that issue.

The Court is not convinced that it is the appropriate court to resolve this dispute. The receivership was filed in the Lewis County Chancery Court (and that court is proceeding with the receivership), and the notice of liquidation was filed in that court. Before any further proceeding are held in this Court, the parties shall need to address whether this Court has jurisdiction and/or is otherwise the appropriate court to continue this action.

The motion for writ of supersedeas is denied.

This the 9 day of Aug., 2004.


WALTER C. KURTZ, JUDGE
BY INTERCHANGE

cc via fax and mail:

The Honorable R.E. Lee Davies
Circuit Court Judge, Div. 2
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Nashville, TN 37202-0207

EXHIBIT 6

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
PART I

SENTINEL TRUST COMPANY, and)
its Directors, Danny N. Bates,)
Clifton T. Bates, Howard H.)
Cochran, Bradley S. Lancaster,)
and Gary L. O'Brien,)

Petitioners,)

vs.)

NO. 04-1934-I

KEVIN P. LAVENDER,)
Commissioner Tennessee)
Department of Financial)
Institutions,)

Respondent.)

ORDER

On August 13, 2004, the petitioners filed a motion for re-hearing and modification of this Court's Order of August 9, 2004, for other relief; for expedited hearing on such motion; and/or interlocutory appeal. On August 20, 2004, the State filed a response.

On August 9, 2004, the Court entered a Memorandum and Order denying the petitioners' motion requesting the Court issue a writ of supersedeas. The Court's twelve (12) page Memorandum and Order explained the Court's reasoning. The petitioners' motion for re-hearing and modification is based upon arguments already made to the Court. The petitioners remain adamantly convinced that the Court does not understand the rules of statutory construction. It

EXHIBIT

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bears repeating: It was the petitioners that chose to press his motion for writ of supersedeas based solely on the legal issue of the Commissioner's authority and not on whether there was an appropriate factual basis supporting the Commissioner's actions. In other words, it is the position of the petitioners that whatever the facts, the Commissioner has no power to seize and liquidate this business. Petitioners assert that even if the business is insolvent or even if the bond holders are at immediate risk it is simply beyond the statutory powers of the Commissioner to act as he did. The motion to alter and amend this Court's Order of August 9, 2004 is denied. The Court adheres to its decision and reasoning set forth in that Memorandum and Order.

Pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure, the Court grants the petitioners an interlocutory appeal from this Court's Memorandum and Order of August 9, 2004. The Court finds that if the Court is mistaken in its opinion regarding the statutory and constitutional powers of the Commissioner, the petitioners would suffer irreparable injury, and the Court further finds that an interlocutory appeal may result in a net reduction in the duration and expense of the litigation if the challenged order is reversed.

This the 23 day of Aug, 2004.


WALTER C. KURTZ, JUDGE
BY INTERCHANGE

cc via fax:

Carrol D. Kilgore, Esq.
Fax # 255-5419

Janet M. Kleinfelter
Senior Counsel
Fax # 532-8223

EXHIBIT 7

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

SENTINEL TRUST COMPANY, ET AL. v. KEVIN P. LAVENDER

Chancery Court for Davidson County
No. 04-1934-I

No. M2004-02068-COA-R10-CV

FILED

SEP 01 2004

Clerk of the Courts

ORDER

This application for an interlocutory appeal pursuant to Tenn. R. App. P. 9 and for an extraordinary appeal pursuant to Tenn. R. App. P. 10 involves a challenge to the seizure of a trust company by the Commissioner of the Tennessee Department of Financial Institutions. On May 18, 2004, the Commissioner took emergency possession of Sentinel Trust Company pursuant to Tenn. Code Ann. § 45-2-1502(b) (1) and (c)(1). The Commissioner filed a receivership action in the Chancery Court for Lewis County and is proceeding to liquidate the company.

On June 29, 2004, Sentinel Trust Company and its directors ("Sentinel") filed a "Petition for Writ of Certiorari and for subsequent Writ of Supersedeas" in the Chancery Court for Davidson County pursuant to Tenn. Code Ann. § 27-8-101 et seq. asserting that the Commissioner has no authority to seize a trust company. The Chancery Court for Davidson County issued the Writ of Certiorari on July 1, 2004. On August 9, 2004, the trial court determined that the banking laws contained in Chapters 1 and 2 of Title 45 fully apply to trust companies and that the statutes are constitutional. Accordingly, the trial court denied Sentinel's request for a Writ of Supersedeas. The trial court subsequently denied Sentinel's Motion for Rehearing and Modification, but granted Sentinel permission to appeal pursuant to Tenn. R. App. P. 9.

Having reviewed the application and supporting documents, we cannot conclude that an interlocutory appeal is necessary to prevent irreparable harm or to prevent needless, expensive and protracted litigation. Nor can we conclude that the trial court has so far departed from the acceptable and usual course of judicial proceedings as to require immediate review under Tenn. R. App. P. 10.

It is, therefore, ordered that the "Interlocutory Application for Permission to Appeal and Application for Extraordinary Appeal under Rules 9 and 10, T.R.A.P." be denied. Sentinel Trust Company and its directors, Danny N. Bates, Clifton T. Bates, Howard H. Cochran, Bradley S. Lancaster and Gary L. O'Brien, and their surety are taxed with the costs for which execution may issue.

PER CURIAM

EXHIBIT

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EXHIBIT 8

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

SENTINEL TRUST COMPANY, DANNY)
N. BATES, CLIFTON T. BATES,)
HOWARD H. COCHRAN, BRADLEY S.)
LANCASTER, and GARY L. O'BRIEN,)

Plaintiffs,)

v.)

KEVIN P. LAVENDER, Commissioner)
of the Tennessee Department of)
Financial Institutions,)

Defendant.)

No. 3:04-0836
JUDGE ECHOLS

ORDER

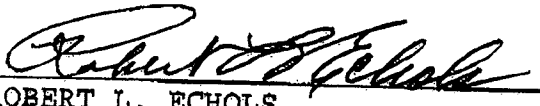
For the reasons explained in the Memorandum entered contemporaneously herewith, the Court rules as follows:

1. Defendant's Motion to Dismiss (Docket Entry No. 12) is hereby GRANTED.


2. Plaintiffs' Motion for a Temporary Restraining Order (Docket Entry No. 3) is hereby DENIED AS MOOT.

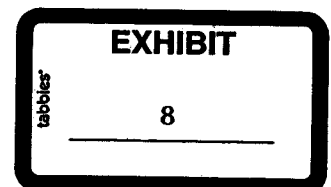
3. This case is hereby DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE

This document was entered on
the docket in compliance with
Rule 58 and/or Rule 79(a).

FRCP, on 12/13/04 By 



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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

SENTINEL TRUST COMPANY, DANNY)
N. BATES, CLIFTON T. BATES,)
HOWARD H. COCHRAN, BRADLEY S.)
LANCASTER, and GARY L. O'BRIEN,)

Plaintiffs,)

v.)

KEVIN P. LAVENDER, Commissioner)
of the Tennessee Department of)
Financial Institutions,)

Defendant.)

No. 3:04-0836
JUDGE ECHOLS

MEMORANDUM

Presently pending before the Court are Plaintiffs' Motion for Temporary Restraining Order (Docket Entry No. 3) and Defendant's Motion to Dismiss (Docket Entry No. 12). The parties have responded in opposition to the motions.¹

I. Background

This case is brought under 42 U.S.C. § 1983 by state-chartered Sentinel Trust Company ("Sentinel"), located in Hohenwald, Lewis County, Tennessee, and by Sentinel's former officers, directors, and/or shareholders, Danny N. Bates, Clifton T. Bates, Howard H. Cochran, Bradley S. Lancaster, and Gary O'Brien against Defendant

¹The case was first assigned to the undersigned District Judge on December 2, 2004. At Plaintiffs' request, the Court held an expedited hearing on the pending motions on December 9, 2004.

This document was entered on
the docket in compliance with
Rule 58 and/or Rule 79(a).

FRCP, on 12/13/04 By KM

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Kevin P. Lavender, Commissioner of the State of Tennessee Department of Financial Institutions, in his official capacity, claiming deprivation of property without due process of law.² Specifically, Plaintiffs challenge two primary decisions made by the Defendant, as well as all actions of the Defendant taken in accordance with those decisions: (1) on May 18, 2004, to take emergency possession of Sentinel and place it in receivership, pursuant to Tenn. Code Ann. § 45-1-124, § 45-2-1502(c)(1); and (2) on June 18, 2004, to proceed to liquidate Sentinel, pursuant to Tenn. Code Ann. § 45-1-124, § 45-2-1502(c)(2) and § 45-2-1504.

Plaintiffs contend that, in seizing possession of Sentinel and proceeding to liquidate the company, the Defendant has exceeded the scope of the powers granted to him by the Tennessee Legislature and that, if the Defendant is permitted to proceed without intervention by this Court, the Defendant's decisions and actions ultimately will deprive the Plaintiffs of their property without due process of law. Plaintiffs seek a Temporary Restraining Order to enjoin the Defendant from carrying out the terms of a November 15, 2004 Order entered by the Lewis County Chancery Court, which granted permission to the Defendant and the Receiver appointed by the

²Plaintiffs filed this action on September 16, 2004. On October 18, 2004, Plaintiffs amended their Complaint once as a matter of right under Federal Rule of Civil Procedure 15(a). Defendant then filed a Motion to Dismiss on November 1, 2004. Plaintiffs filed a Second Amended Complaint on December 1, 2004, without leave of Court or apparent consent of the Defendant, as required by Rule 15(a).

Defendant to transfer to successor fiduciaries, no later than December 15, 2004, the fiduciary positions formerly held by Sentinel on all non-defaulted bond issues, after which time the Defendant and the Receiver will not retain any fiduciary positions in relation to bond issues covered by the November 15, 2004 Order. Plaintiffs claim that, if this Court does not enter a Temporary Restraining Order in Plaintiffs' favor, then the Defendant and the Receiver will complete the transfer of the fiduciary positions by the target date. In doing so, the Defendant and the Receiver will essentially complete the liquidation process, and Sentinel will be effectively destroyed.

If Plaintiffs succeed in obtaining a Temporary Restraining Order from this Court, they indicate they will then seek a permanent injunction that will: (1) restrain the Defendant from taking any further steps to carry out the liquidation of Sentinel, including the sale of fiduciary accounts or other properties; (2) restore Sentinel to the control of its Board of Directors; (3) require the Defendant, individually and through the Receiver, to make a full accounting to Sentinel and its Board of Directors as to the use of all Sentinel funds during the period of the receivership; and (4) grant such other relief as the Court deems warranted.

Defendant has filed a Motion to Dismiss this action on the ground that the Court lacks subject matter jurisdiction to grant

Plaintiffs any relief. Defendant contends that, in accordance with state statutes, the Plaintiffs filed suit against the Defendant in Davidson County Chancery Court to challenge the legality of the Defendant's decisions and actions concerning Sentinel, that Plaintiffs raised in that state proceeding the precise legal claims they raise in this action, and that the Davidson County Chancery Court entered its written decision rejecting Plaintiffs' legal analysis and holding that the Defendant acted within his statutory powers in taking possession of Sentinel and proceeding to liquidate Sentinel. While the Tennessee Court of Appeals declined Plaintiffs' request to undertake an immediate review of that decision pending further proceedings on Plaintiffs' claims in the Davidson County Chancery Court, the potential for appellate review nonetheless remains open to the Plaintiffs at the final conclusion of that state case.

This federal court, Defendant maintains, does not possess any authority to review judgments entered by Tennessee state courts because that power is reserved to the Tennessee appellate courts and the United States Supreme Court. Further, Defendant contends, under controlling United States Supreme Court precedent, this Court must abstain from interfering in the ongoing state court proceedings, both in Davidson County and in Lewis County, with regard to Sentinel's liquidation.

II. FACTS AND PROCEDURAL HISTORY

To resolve the issues presented for decision, the Court will rely on the written factual record submitted by the parties. At the expedited hearing on the motions, the parties declined to present additional evidence.

On November 20, 1975, Sentinel was chartered under the Tennessee General Corporation Act to engage in general trust company business. By law, Sentinel was not subject to the provisions of the Tennessee Banking Act or to regulation by the Tennessee Commissioner of Financial Institutions at the time of its charter. Sentinel operated for more than twenty years at various offices in Nashville, Tennessee.

Effective July 1, 1999, the General Assembly amended the Tennessee Banking Act to extend application of the banking statutes to trust companies, including those, like Sentinel, that had been chartered before 1980. Tenn. Code Ann. § 45-1-124 (2000). Specifically, the legislature provided in the amended statute that, "[u]nless the commissioner determines otherwise, the provisions of chapters 1 and 2 of this title, and the rules thereof, shall also apply to the operation and regulation of state trust companies and banks whose purposes and powers are limited to fiduciary purposes and powers." Tenn. Code Ann. § 45-1-124(b). The amendment further provided that the Commissioner could allow trust companies a period of up to three years from July 1, 1999, to establish full

compliance with Chapters 1 and 2 of the Tennessee Banking Act and the regulations promulgated thereunder. Tenn. Code Ann. § 45-1-124(h). Also, the Commissioner was given authority to conduct examinations of any trust company at the company's expense and to apply the requirements of Chapter 1 and 2 to trust companies. Id.

After these amendments took effect, state examiners conducted an initial visitation at Sentinel on October 22, 1999. The examiners identified certain violations of the Tennessee Banking Act, which they discussed with Sentinel's President, Danny Bates. Thereafter, state examiners conducted three full-scope examinations of Sentinel in the years 2000, 2001, and 2002. At each of these, state examiners identified particular shortcomings that were discussed with Sentinel's Officers and Directors. While Sentinel improved over time in certain areas of its operations that examiners had criticized, its performance declined in other areas, to the consternation of the state examiners. Of particular concern to the examiners were the number of bond issues held by Sentinel as fiduciary that were in overdraft status and Sentinel's commingling bond and corporate funds. It was during this period that Sentinel built a new building and moved all of its operations to Hohenwald, Lewis County, Tennessee.

The fourth full-scope examination commenced June 13, 2003. Additional concerns arose during the examination. By September 2003, the examiners notified the Assistant Commissioner of the

Department of Financial Institutions that Sentinel was believed to have a significant fiduciary shortfall. As a result of this report, the examination was interrupted to allow completion of Sentinel's 2002 audit.

On October 6, 2003, the Defendant met personally with Sentinel's Board of Directors to discuss issues and concerns relating to the examination. During this meeting, President Bates admitted that Sentinel used commingled funds from various bond issues to pay the expenses on other non-related defaulted bond issues.³ At this meeting, the financial condition of the company was discussed. The Defendant reminded the Directors that Sentinel was in violation of state statute and department regulation in that its 2002 audit had not been conducted. Further, the Defendant expressed concern that one auditor Sentinel had hired to conduct the 2002 audit had resigned and Sentinel appeared to be taking an undue period of time to hire a replacement auditor.

Continuing efforts were made by Sentinel to obtain an audit and by the examiners to reconcile Sentinel's books through late

³Tenn. Code Ann. § 45-2-1003(1) provides in part that a "trust company holding any asset as a fiduciary . . . shall segregate all such assets from any other assets . . . except as may be expressly provided otherwise by law or by the instrument creating the fiduciary relationship and any such asset may be kept by such bank or trust company." Subsections (2) and (3) of the statute provide that a trust company also must maintain segregated fiduciary accounts, unless the trust company can meet an exception for holding assets by class in bulk and complies with applicable regulations for holding the assets in such a manner.

2003 and into 2004. The examiners were hampered by Sentinel's use of two different accounting systems which were not reconciled to each other or to bank statements. Ultimately, in light of several significant concerns, Sentinel's auditor would not express an opinion on the financial statement of Sentinel as of December 31, 2002.

In light of this, state examiners conducted further visitations at Sentinel in March and April 2004. Based upon records Sentinel provided, examiners believed that a significant net fiduciary cash shortage existed that Sentinel could not explain.

In early April 2004, the Defendant sent Sentinel a letter requesting an attorney opinion justifying the legal basis for Sentinel's practice of "borrowing" funds generated by one bond issue to pay the expenses of another. In mid-April Sentinel's bank letter of credit for insurance purposes expired. On April 20, 2004, Sentinel's attorneys refused to give the opinion letter the Defendant had requested.

Sentinel's Executive Vice President and two attorneys representing Sentinel then asked to meet with the Defendant and his staff on April 28, 2004. Sentinel requested permission to continue using funds from the commingled fiduciary cash account to meet immediate cash needs on bond issues. Sentinel also asked to transfer fiduciary positions on two bond issues to successor

trustees. The Defendant denied both requests. However, Defendant stated he wanted to meet with the Board on Friday, April 30, 2004, and would be requesting an immediate capital injection.

On April 30, the Defendant and his staff met with Sentinel's full Board of Directors. During that meeting, President Bates admitted that Sentinel then had a fiduciary cash shortfall of \$7.25 million. The Defendant responded that he would issue an Emergency Cease and Desist Order on Monday, May 3, 2003, requiring an infusion of \$2 million in capital as a showing of the Board's good faith and commitment to operation of the company. The Defendant also indicated that he and his staff would work with Sentinel's Board of Directors to allow it to eliminate the cash deficit over time under an approved capital plan, if the Directors would make the required infusion of capital.

Late on the afternoon of May 3, 2004, Sentinel's management submitted a capital plan to the Defendant, but then immediately withdrew it on advice of counsel. That evening, at 5:50 p.m., the Defendant issued an Emergency Cease and Desist Order, copies of which were hand-delivered to Sentinel's counsel and sent by overnight courier to Sentinel's Board of Directors.

The Emergency Cease and Desist Order included four charges stating that Sentinel was operating in an unsafe and unsound manner: (1) by using pooled fiduciary funds to provide operating capital for non-related defaulted bond issues, which created a

fiduciary cash shortfall that changed on a daily basis and greatly exceeded Sentinel's then-current operating capital; (2) by operating with an inadequate level of capital for the kind and quality of accounts held under administration; (3) by failing to reconcile fiduciary cash and corporate cash accounts in a timely and accurate fashion; and (4) by failing to keep accurate books and records. The Order directed Sentinel, its Directors, officers, employees, agents, successors and assigns to cease and desist from engaging in numerous delineated acts with regard to operations, and further ordered them, among other things, to make an initial capital infusion of \$2 million in cash by the close of business on May 17, 2004, and to submit a capital plan to completely replenish the fiduciary pooled demand deposit account.

Sentinel then obtained new legal counsel after the attorneys who had been representing Sentinel withdrew from representation when President Bates refused to resign his position with Sentinel. The new attorneys, who have substantial experience in the operation of financial institutions, communicated with the Defendant and members of his staff numerous times in the following days in an attempt to avoid the necessity of placing Sentinel in receivership. On May 17, 2004, the Defendant and his staff met with Sentinel's counsel, who reported that Board members did not have sufficient funds to meet the required capital infusion.

As a result, on May 18, 2004, effective at 10:00 a.m., the Defendant took emergency possession of Sentinel by posting at Sentinel and filing in Lewis County Chancery Court at Hohenwald, Tennessee, a Notice of Possession of Sentinel Trust Company, pursuant to Tenn. Code Ann. § 45-2-1502(b)(1) & (c)(1). Among its provisions, the Defendant's Notice specifically stated:

Any person aggrieved or directly affected by the Commissioner's emergency possession of Sentinel Trust Company may have judicial review in Davidson County Chancery Court by common-law writ of certiorari, as provided in Title 27, Chapter 9, of Tennessee Code Annotated.

The Defendant also entered an Order appointing Jeanne Barnes Bryant/Receivership Management, Inc., to serve as Receiver under Tenn. Code Ann. § 45-2-1502(b)(2).⁴

Sentinel again obtained new counsel. On June 2, 2004, Sentinel and its Board of Directors filed with Defendant their "Respondents' Special Appearance, Statement of Special Defenses, and Answer to Notice of Charges." Sentinel and its Directors emphatically contended that the Defendant lacked any power or

⁴Tenn. Code Ann. § 45-2-1502(c)(1) expressly permits the Commissioner to take emergency possession of a state bank without a prior hearing if, "in the opinion of the commissioner, an emergency exists which will result in serious losses to the depositors[.]" The statute further provides that "[a]ny person aggrieved and directly affected by this action of the commissioner may have a review by certiorari as provided in title 27, chapter 9[.]" which is Tennessee's statutory mechanism for obtaining state court review of the decisions of state boards and commissions, through appeal to the Tennessee Court of Appeals. This statute, located in Chapter 2 of the Tennessee Banking Act, applies to trust companies by operation of Tenn. Code Ann. § 45-1-124.

jurisdiction under the Tennessee Banking Act to take emergency possession of Sentinel, a trust company. Without waiving this position, Sentinel responded directly to each charge the Defendant had made in the Notice of Possession and demanded "every hearing and other procedural safeguard" to which it was entitled.

The next day, June 3, 2004, having received Sentinel's demand for a hearing, the Defendant filed a request for an assignment of an Administrative Law Judge to hear the contested case. On June 16, 2004, the assigned Administrative Law Judge contacted counsel for the parties by letter, in which he set forth pre-hearing procedures to be followed and then stated: "When you are ready to set a hearing date, please call me so we can pick a mutually acceptable time." According to the record before the Court, Plaintiffs did not, at any time, ask the Administrative Law Judge to set a hearing date, and Plaintiffs did not state otherwise at the hearing before this Court.

On June 17, 2004, the Defendant, members of his staff, and legal counsel met with Plaintiff Bates and Sentinel's attorney and gave them the opportunity to review a draft report prepared by the state examiners and the Receiver concerning the insolvency of Sentinel. The Defendant permitted Plaintiff Bates and his attorney to take this draft report into a private room to review it for about one hour. The Defendant stated that he wanted the report to

be accurate and asked Plaintiff Bates and his attorney to point out any inaccuracies or any other concerns they might have.

The draft report reflected that, as of December 31, 2003, Sentinel had a shortfall in the pooled fiduciary account of \$5,789,011.00. The report also showed that the shortfall increased over the next four months so that, by May 18, 2004, the deficiency ranged from \$7,612,218.00 in one accounting system used by Sentinel to \$8,430,722.00 in the fiduciary account system. Further, the Receiver had discovered bond principal and interest checks totaling \$861,107.11 in Sentinel's vault that had not been sent to bondholders. The report also showed, based on Sentinel's records, that for the first four and one-half months of 2004, it operated at a net loss of \$197,917.00. Sentinel had total corporate assets of \$1,389,683. Thus, considering the cash deficiency in the pooled fiduciary account, Sentinel was insolvent in an amount of at least \$6,225,445 as of May 18, 2004.

After reviewing the report, Sentinel's attorney pointed out a typographical error in the report and stated he would like to submit written comments the following morning. The attorney made other observations about matters concerning the Receiver's operations. A few changes were made to the report as the result of the meeting, and then the final report was provided to the Defendant. The next morning, June 18, 2004, Sentinel's attorney and Defendant's counsel had several conversations about the

submission of Sentinel's written comments, but ultimately Sentinel did not submit any. It appears that Sentinel did not, at any time, inform the Defendant of any errors noted in the draft report.

Upon consideration of the final report, the Defendant decided that Sentinel should be liquidated. Early on the afternoon of June 18, 2004, Defendant filed a Notice of Liquidation in the Lewis County Chancery Court proceeding, pursuant to Tenn. Code Ann. § 45-2-1502(c)(2).⁵ The Notice stated the reasons why the Defendant had determined liquidation was necessary and indicated the Defendant would proceed to liquidate Sentinel pursuant to Tenn. Code Ann. § 45-2-1504.⁶ The Notice of Liquidation provided that "[a]ny person

⁵This statute provides in part:

If the commissioner determines to liquidate the state bank, the commissioner shall give such notice of such determination to the directors, stockholders, depositors and known creditors. Upon a determination to liquidate, the commissioner may, with ex parte approval of the court in which the notice of possession was filed, sell all or any part of the state bank's assets to another state or national bank or to the Federal Deposit Insurance Corporation.

This statute applies to state trust companies by operation of Tenn. Code Ann. § 45-1-124.

⁶This statute identifies acts in liquidation for which the Commissioner must seek approval of the court in which the Notice of Possession was filed. Particularly, the statute provides in part:

(c) As soon after the commencement of liquidation as is practicable, the commissioner shall take the necessary steps to terminate all fiduciary positions held by the state bank and take such action as may be necessary to surrender all property held by the bank as a fiduciary and to settle its fiduciary accounts. Such fiduciary

aggrieved or directly affected by the Commissioner's determination to liquidate Sentinel Trust Company may have judicial review in Davidson County Chancery Court by common-law writ of certiorari, as provided in Title 27, Chapter 9 of Tennessee Code Annotated, pursuant to Tenn. Code Ann. § 45-1-108(a)." Since June 18, the Defendant and the Receiver have proceeded to liquidate Sentinel, and they have made filings with the Lewis County Chancery Court seeking permission to take certain actions with regard to that liquidation.

On June 29, 2004, Plaintiffs filed a Petition for Writ of Supersedeas and for Common-Law Writ of Certiorari with the Davidson County Chancery Court. Plaintiffs raised the legal claim that the Defendant lacked statutory authority to exercise any of his bank regulatory powers against a trust company. Plaintiffs asserted that the Defendant only has general power to enforce applicable laws against trust companies, including statutes applicable by their terms to trust companies and statutes in the Tennessee Banking Act concerning fiduciary functions which, by their explicit terms, are applicable to both trust companies and banks authorized

accounts may be transferred by the commissioner to another qualified corporate fiduciary as determined by the commissioner, and notice of such transfer must be given by registered mail to the parties by the transferee corporate fiduciary.

This statute applies to state trust companies by operation of Tenn. Code Ann. § 45-1-124.

to exercise fiduciary powers, citing Tenn. Code Ann. §§ 45-2-1002 - 1006. Plaintiffs also raised several arguments with respect to the constitutionality of Tenn. Code Ann. § 45-2-1502. On July 16, 2004, Plaintiffs filed a motion for an expedited hearing on their Petition for Writ of Supersedeas.

On July 27, 2004, the Defendant responded to Plaintiffs' petition and filed the administrative record supporting Defendant's decisions to take possession of and liquidate Sentinel. The Defendant contended that he had acted under express statutory authority pursuant to the Legislature's 1999 amendments to Tenn. Code Ann. § 45-1-124. The Defendant also asserted that the statutes permitting him to take possession of Sentinel were constitutional and that a substantial factual basis existed to support the seizure and liquidation of Sentinel. On August 4, 2004, the Defendant filed a supplemental response providing a transcript of the legislative debates, which Defendant claimed clearly showed the General Assembly's understanding and intent that all provisions of the Tennessee Banking Act (Chapters 1 and 2 of Title 45) would apply to state trust companies.

The Davidson County Chancery Court met with counsel and offered to schedule a consolidated hearing within seven to ten days on Plaintiffs' Petition for Writ of Certiorari to address the factual merit of the Defendants' decisions to take possession and liquidation of Sentinel and the Writ of Supersedeas to consider

whether the liquidation proceeding should be stayed. Defendant's counsel stated she thought the Defendant would agree to stop the liquidation until a final hearing, but Plaintiffs' counsel declined to move forward on the Petition for Writ of Certiorari to explore the factual merit of the Defendant's actions. Plaintiffs asked to proceed only on the Writ of Supersedeas asserting their statutory and constitutional arguments that the Defendant acted without authority and that the court should return control of the company to Sentinel and its Directors.

The Davidson County Chancery Court then held a hearing on Plaintiffs' Writ of Supersedeas on August 5, 2004, and issued its written opinion on August 9, 2004. The court stated:

The lawyer for the petitioners has chosen the battleground. He has chosen to not yet enter the factual fray but has chosen the law as his weapon. He insists that the Commissioner has exceeded his statutory authority. He states emphatically that the statutes used by the Commissioner do not apply to trust companies but only apply to banks. The petitioners are wrong.

Whatever ambiguity there might have been prior to 1999 in the application of the banking laws to trust companies, it was eliminated in 1999. In 1999, the General Assembly amended the Act to specifically make trust companies subject to all of its provisions, not just those pertaining to fiduciaries.

(August 9, 2004 Order at 7.) The court then addressed the particular statutes at issue, particularly § 45-2-1502, and rejected Plaintiffs' "novel argument," which is the same argument Plaintiffs raise in this lawsuit, that

because this statute speaks only in terms of a state bank and its depositors and because Sentinel is neither a

state bank nor has any deposits/depositors, this statute does not apply to Sentinel and, therefore, the Commissioner acted illegally or exceeded his authority when he took possession of Sentinel pursuant to this statute.

August 9, 2004 Order at 9.)

Citing Fahey v. Mallonee, 332 U.S. 245 (1947), the state court also rejected Plaintiffs' claim that the Defendant's acts were unconstitutional, reasoning that intrusive statutory schemes governing financial institutions have been upheld against constitutional attack because such institutions traditionally have been very highly regulated by government for obvious reasons. Under Fahey, the court said, a statutory scheme is constitutional if it provides for emergency seizure and/or liquidation of a financial institution and provides for an immediate post-seizure hearing. (Id. at 10.) The court ruled that Tennessee's statutory scheme is constitutional because a post-deprivation hearing is provided for in Tenn. Code Ann. § 45-2-1502(c)(1), and "[t]here is nothing contained in the Constitution of Tennessee or Tennessee case law inconsistent with the above conclusion." (Id. at 10-11.)

On September 16, 2004, Plaintiffs filed this present action, asserting the same legal claims and seeking similar injunctive relief. Although Plaintiffs filed a separate Motion for a Temporary Restraining Order the same day the Complaint was filed, Plaintiffs did not move for a hearing on the motion for an injunction until November 4, 2004. The previously-assigned

District Judge set a hearing date, but then canceled it. Plaintiffs then moved for an expedited hearing, which this Court granted.

II. ANALYSIS

Before the Court may consider the pending Motion for a Temporary Restraining Order, the Court must first determine that it has subject matter jurisdiction. Clearly, in a case raising a federal constitutional claim of deprivation of property without due process of law under 42 U.S.C. § 1983, the Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and § 1343. But recognizing that the Court has original jurisdiction over a particular type of claim does not end the inquiry, for other principles operate to narrow the Court's jurisdiction, especially in cases like this one where the Plaintiffs seek a remedy in both state and federal courts as a result of the actions of the same Defendant and in regard to precisely the same facts.

The Defendant asks the Court to dismiss the suit for lack of subject matter jurisdiction based on the *Rooker-Feldman* doctrine. That doctrine "provides that inferior federal courts lack jurisdiction to review the final judgments of state courts." Hutcherson v. Lauderdale County, 326 F.3d 747, 755 (6th Cir. 2003); Howard v. Whitbeck, 382 F.3d 633, 638-640 (6th Cir. 2004); Patmon v. Michigan Supreme Court, 224 F.3d 504, 508-510 (6th Cir. 2000). The Defendant contends that the Davidson County Chancery Court has

already decided the legal issues Plaintiffs raise in this suit and therefore, the Rooker-Feldman doctrine applies to prevent this Court from sitting as a court of appeal to review that state court decision. Because Plaintiffs' claims are inextricably intertwined with the Davidson County proceeding, the Court would be inclined to agree that the Rooker-Feldman doctrine applies, except that the August 9, 2004 Order of the Davidson County Chancery Court is not yet a final judgment. Plaintiffs sought interlocutory appellate review in the Tennessee Court of Appeals, but their request was denied in favor of consolidated review at a later date when the proceedings on the Petition for Writ of Certiorari conclude. Because of the lack of a final state court judgment, the Court is not convinced that the Rooker-Feldman doctrine applies.

The Defendant also asserts, under Younger v. Harris, 401 U.S. 37 (1971), and subsequent cases extending its ruling to civil cases, that the Court must abstain from involvement in this civil legal dispute between Plaintiffs and the Defendant in the interest of comity between the state and federal courts. The Court must consider (1) whether the underlying proceedings constitute an ongoing state judicial proceeding; (2) whether the proceedings implicate important state interests; and (3) whether there is an adequate opportunity in the state proceedings to raise a constitutional challenge. Tindall v. Wayne County, 269 F.3d 534, 538 (6th Cir. 2001). "Where a review of these considerations

suggests that the state court should properly adjudicate the matter, a federal court should abstain and order the federal complaint dismissed." Id.; Carroll v. City of Mount Clemens, 139 F.3d 1072, 1074 (6th Cir. 1998) (affirming Younger abstention in section 1983 case where state civil enforcement proceeding was pending in state court). See also Robinson v. Criminal Court Clerk, 181 F.3d 103, 1999 WL 282697 at *1 (6th Cir. 1999) (Table) (Younger requires federal court "to abstain from hearing challenges to pending state proceedings where the state's interest is so important that exercising federal jurisdiction would disrupt the comity between federal and state courts."); Millington Homes Investors, Ltd., v. City of Millington, 60 F.3d 828, 1995 WL 394143 at * 3-4 (6th Cir. 1995) (Table). The Sixth Circuit also teaches that, if "a plaintiff can demonstrate extraordinary circumstances such as bad faith, harassment, flagrant unconstitutionality, or another unusual circumstance warranting equitable relief, then a federal court may decline to abstain." Id. These exceptions are narrowly construed. Zalman v. Armstrong, 802 F.2d 199, 205 (6th Cir. 1986). This Court concludes as a matter of law that each of the factors is met in this case, that none of the exceptions applies, and that the Court must abstain.

The Tennessee state courts have been intricately involved in Sentinel's liquidation since May 2004 and those courts will continue to be involved with Sentinel for some period of time into

the future. Because of the state courts' ongoing involvement and because the regulation and supervision of Sentinel is of critical importance to the state government under which the company was chartered, this Court agrees with the Defendant that the Court must defer to the state courts to hear and resolve all claims and abstain from any interference in that ongoing legal process.

The Court has considered carefully Plaintiffs' plea that Sentinel will be effectively destroyed if this Court fails to intercede and the Defendant finalizes the liquidation of Sentinel as planned. But the immediacy of Plaintiffs' plea is undercut by Plaintiffs' own actions in failing time and again to take advantage of opportunities to seek relief before state tribunals. Putting aside for a moment the numerous opportunities the Defendant himself provided to the Plaintiffs to take immediate action to stabilize Sentinel's precarious financial position in the period from April to June 2004 and the offers Defendant made to stay liquidation proceedings to permit a full hearing, Plaintiffs failed to pursue in a timely manner the remedies provided to them by state law.

In response to the charges included in the Defendant's Notice of Possession, the Plaintiffs demanded an immediate contested case hearing, yet did not stand on that demand and press forward when the Defendant set that administrative process in motion. The Davidson County Chancery Court offered to consolidate the hearing on the merits of the Defendant's actions and Plaintiffs' request

for injunctive relief, but Plaintiff elected to proceed only on its legal claims on the Writ of Supersedeas. Similarly, Plaintiffs did not press for injunctive relief from this Court until it became apparent that the Defendant was moving into the final stages of Sentinel's liquidation.

As it appears from the record before the Court, the state courts are rightfully exercising their authority to supervise Sentinel's liquidation as provided by state law. Plaintiffs have available to them adequate state remedies, which is the point addressed in the case Plaintiffs cite, Boyce v. Williams, 389 S.W.2d 272 (Tenn. 1965). The higher appellate courts of Tennessee, and ultimately the United States Supreme Court, will be the final arbiters of the construction and interpretation of the Tennessee banking statutes at issue in this case. This Court should defer to their authority.

Plaintiffs contend that the state court did not apply the ordinary rules of statutory construction in reaching its decision, and that opens the door for this Court to reconsider the matter.⁷

⁷The Defendant noted during oral argument that, with regard to industrial banks, the General Assembly enacted legislation choosing specific, existing statutes to apply to industrial banks, while in this situation, the General Assembly enacted legislation making state trust companies subject to all of the provisions of Chapters 1 and 2 of the Banking Act. Thus, the legislature knew how to choose particular statutes to apply to state trust companies if it had wanted to do so.

Plaintiffs responded that the way to address the problem was through statutory definitions and that, under Madison Loan & Thrift Co. v. Neff, 648 S.W.2d 655 (Tenn. Ct. App. 1983), the Defendant

By reason of comity, this Court is not permitted to revisit the accuracy or thoroughness of the state court's decision; rather, the Tennessee appellate courts will decide whether that decision is correctly reasoned under the applicable principles of statutory construction. In this action, this Court must give the state court's decision the preclusive effect it deserves. See Allen, 449 U.S. at 97-99.

Moreover, Plaintiffs raised in the state court the identical federal constitutional claim they raise in this Court. State and federal courts have concurrent jurisdiction to consider constitutional claims brought under 42 U.S.C. § 1983. Felder v. Casey, 487 U.S. 131, 139 (1988). Because the Davidson County Chancery Court has already ruled on the merits of the constitutional claim, Plaintiffs are barred by the doctrine of collateral estoppel from asking this Court to relitigate the merits

could not exercise authority the statutes did not give him. The Court may not address these arguments, for the state court's decision is entitled to full faith and credit and it stands as it is. Only as an aside, the Court notes that Tenn. Code Ann. § 45-1-103(27) defines a "state trust company" as a "corporation organized . . . under the Banking Act, as compiled in this chapter and chapter 2 of this title, whose purposes and powers are limited to fiduciary purposes and powers, including a trust company previously organized under the laws of this state[.]" Further, the issue in Neff was whether state statutes gave the Commissioner authority to promulgate rules concerning the financial soundness of industrial loan and thrift companies, and the court of appeals held the statutes did not give the Commissioner such power. The same statutes are not at issue in this case.

of that issue. See Allen v. McCurry, 449 U.S. 90, 97-99 (1980).⁸ See also American Nat'l Bank and Trust Co. v. Clark, 586 S.W.2d 825, (Tenn. 1979) (noting where plaintiff elects to proceed on only part of cause of action, judgment entered on that part is res judicata against second suit to recover on the other part, provided the right to recover on all had accrued at the time of the first suit).

IV. CONCLUSION

For all of the reasons stated, the Court concludes that it must abstain from considering and ruling on any of the legal claims Plaintiffs raise in this lawsuit, including the request for temporary injunctive relief. The Court is aware of the Sixth Circuit's admonition in Carroll, 139 F.3d at 1075-1076, that where monetary damages are demanded in a section 1983 suit, a federal court should stay, rather than dismiss, the case pending conclusion of state court proceedings. Plaintiffs here expressly state in the Complaint that the suit is brought against the Defendant in his official capacity only, and that damages are not sought.


⁸In any event, under Fahey v. Mallonee, 332 U.S. 245 (1947), First Fed. Sav. Bank and Trust v. Ryan, 927 F.2d 1345, 1357-1358 (6th Cir. 1991), and Bingham v. National Credit Union Admin. Bd., 927 F.2d 282, (6th Cir. 1991), the opportunity for a post-deprivation hearing immediately following seizure of a financial institution and/or appointment of a receiver or conservator meets constitutional muster and a pre-deprivation hearing is not required.

Accordingly, dismissal of the suit is appropriate. See Tindall,
269 F.3d at 538.

For all of the reasons stated, Defendant's Motion to Dismiss
shall be GRANTED.

Plaintiffs' Motion for a Temporary Restraining Order shall be
DENIED AS MOOT.

An appropriate Order shall be entered.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company

)
)
) Case No. 4781
)

FILED
AT 11:24 O'CLOCK A. M.

MAR 18 2005

JANET WILLIAMS, CLERK & MASTER
BY Selena W. W.

**ORDER SCHEDULING HEARING ON OBJECTIONS TO RECEIVER'S MOTION
FOR APPROVAL OF FINAL DISTRIBUTIONS FOR FORT PIERCE, FLORIDA,
HERNANDO COUNTY, FLORIDA AND TARRANT COUNTY, TEXAS BOND ISSUES
AND TO RECEIVER'S MOTION FOR APPROVAL OF RECEIVER, OUTSIDE
COUNSEL AND THIRD PARTY CONTRACTOR'S FEES**

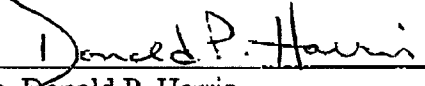
Pending before the Court are the Sentinel Trust Receiver's Motions (filed February 17, 2005) seeking approval of final distribution of funds related to three defaulted bond issues known as the Fort Pierce, Florida Bond Issue, the Hernando County, Florida Bond Issue and the Tarrant County, Texas Bond Issue. Also pending before the Court is the Sentinel Trust Receiver's Motion for Approval of Receiver, Outside Counsel and Third Party Contractor's Fees (filed February 17, 2005). On February 25, 2005 "Objections of Danny N. Bates et al.¹ to Motions of Receiver for Approval of Expenditures and Disbursements re: Fort Pierce, Florida and Hernando County, Florida and Tarrant County, Texas Bond Issues" were filed. On February 28, 2005, these motions came before the Court for hearing. At that time counsel for Respondents, made oral objection to the Court concerning the Receiver's Motion for Approval of Receiver, Outside Counsel and Third Party Contractor's Fees, said objection being that Respondents assert that payment of those fees was going to be made from fiduciary assets.

¹ The individuals making this filing are herein referred to, as they did in their filing, as "Respondents."

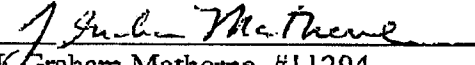
Upon consideration of the matters before it, the Court finds that a hearing is needed as to the objections made by the Respondents. Accordingly, the Court ORDERS as follows:

1. an evidentiary hearing will be set for June 9, 2005 concerning the objections of the Respondents to the Receiver's Motions as noted herein;
2. Respondents will have two weeks to file with the Court, and serve counsel with, the written form of the objections lodged orally at the February 28, 2005 hearing concerning Receiver's Motion for Approval of Receiver, Outside Counsel and Third Party Contractor's fees; and
3. the Respondents and the Receiver will be able to conduct reciprocal discovery but that discovery will be limited as to the topic matter of Respondent's objections which are set for hearing on June 9, 2005.

It is so ORDERED, this the 14TH day of March, 2005.


Hon. Donald P. Harris

Submitted for Approval


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CERTIFICATE OF SERVICE

This is to certify that on March 3rd, 2005, a copy of the foregoing Order has been sent via First Class U.S. Mail, postage prepaid to:

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J. Graham Matherne

EXHIBIT 9

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
PART I

SENTINEL TRUST COMPANY, and)
its Directors, Danny N. Bates,))
Clifton T. Bates, Howard H.)
Cochran, Bradley S. Lancaster,))
and Gary L. O'Brien,)

Petitioners,)

VS.)

NO. 04-1934-I

KEVIN P. LAVENDER,)
Commissioner Tennessee)
Department of Financial)
Institutions,)

Respondent.)

ORDER

This case is before the Court on petition for certiorari and
supersedeas filed June 29, 2004 pursuant to T.C.A. § 45-2-1502
(c)(1) (If the Commissioner takes possession without a prior
hearing, then review may be had "by certiorari as provided in Title
27, Chapter 9.").

The petitioners previously sought a supersedeas, which was
denied by Memorandum and Order dated August 9, 2004, with an
interlocutory appeal denied by the Court of Appeals September 1,
2004. The petitioners next turned to the federal courts but were
unable to obtain relief. See Sentinel Trust v. Lavender, 2004 U.S.
Dist. LEXIS 27259 (Md. Tenn. Dec. 13, 2004). The federal court

EXHIBIT

9

decision contains a detailed chronology of the facts leading to the Commissioner's seizure of the trust company. Id. at ¶ 7-22.

While this case has been pending in Davidson County and while the federal case was pending, the receivership has gone forward in the Chancery Court of Lewis County. There is at least some question of whether a factual challenge to the seizure has been delayed so long by the petitioners as to be ineffectual and therefore moot.¹ See Boyce v. Williams, 389 S.W.2d 272, 277-78 (Tenn. 1965). The case will proceed, however, to a final hearing.

The petitioners have now moved the Court to set a final hearing. This motion is granted, and the hearing is set for 9:00 a.m. on Tuesday, March 29, 2005. Local Rule 25 governing judicial review of administrative decisions is suspended. However, if counsel want to file additional legal authorities for the Court to consider, it should be done by noon on March 28, 2005.

The scope of review is governed by T.C.A. § 27-9-111. By case law, review is restricted to the record below and the introduction of additional evidence on the question of whether the [Commissioner] exceeded his jurisdiction or acted illegally, arbitrarily, or capriciously. See Massey v. Shelby County, 813 S.W.2d 462, 464-65 (Tenn. Ct. App. 1991); Bayside Warehouse Co. v. City of Memphis, 470 S.W.2d 375, 379 (Tenn. Ct. App. 1971). The Court further notes

¹The federal court commented on the petitioner's delay. Sentinel Trust, supra, at *28-29.

that since this is the post-seizure hearing allowing the petitioners to make a factual challenge to the seizure, the Court should be liberal in allowing the introduction of evidence in order to insure that the hearing fully complies with concepts of due process. See generally Fahey v. Mallonee, 332 U.S. 245, 67 S.Ct. 1552 (1947); First Fed. Savings v. Ryan, 927 F.2d 1345, 1357-59 (6th Cir. 1991). The Court remains cognizant that petitioners have waited approximately eight (8) months post-seizure to ask for a hearing challenging the Commissioner's factual determinations.

If the petitioners choose to introduce evidence at the hearing, the petitioners shall notify the respondent in writing by March 23, 2005 of the names of the witnesses and a brief summary of their testimony.²

This the 16 day of March, 2005.


WALTER C. KURTZ, JUDGE
BY INTERCHANGE

cc via fax:

Carrol D. Kilgore, Esq.
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Janet M. Kleinfelter
Senior Counsel
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²At the status conference held on March 16, 2005, petitioners' counsel indicated that he might want to call two (2) witnesses.

EXHIBIT 10

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company

)
)
) Case No. 4781
)

**ORDER ALLOWING PAYMENT OF SENTINEL RECEIVERSHIP EXPENSES
FROM RECOVERY OF SENTINEL FEES FROM DEFAULTED BOND ISSUES
AND SENTINEL FEES FROM PROCESSING BOND PAYMENTS**

On July 2, 2004, the Receiver filed a Motion for Permission to Pay Operating Expenses of Receivership from Pre-May 18, 2004 Funds in SunTrust "Pooled" Account. That motion came for hearing before the Court on July 12, 2004.

Upon call of the motion, the Receiver modified the same by announcing that the Receiver currently hold adequate moneys from Sentinel Fees received in recoveries from defaulted bond issues to pay the current operating expenses for which immediate payment approval was sought by the motion. Upon objections raised by Sentinel Trust Company and by some of the bond issuers which appeared through counsel, objecting to ever paying any receivership expenses from the "Pooled" account, the Court pretermitted any determination of whether any receivership expenses would be payable from such source until such time as the question might arise if and when application is made to pay receivership expenses from the "Pooled" account.

Pursuant to T.C.A. §45-2-1502(f), the Court approves payment of Sentinel receivership expenses from recovery of Sentinel fees arising from recoveries on defaulted bond issues and from Sentinel fees arising from processing bond payments.

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JANET WILLIAMS, CLERK & MASTER
BY: *[Signature]*

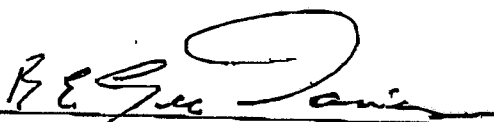
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MINUTE BOOK A-7 PAGE 171


EXHIBIT

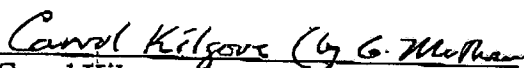
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10


It is so ORDERED, this the 16 day of July, 2004.


Hon. R.E. Lee Davies

Agreed to and Submitted for Approval


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CERTIFICATE OF SERVICE

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EXHIBIT 11

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company

)
)
)
)

Case No. 4781

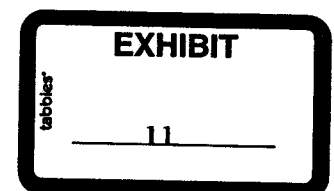
FILED 3:0 PM
AM NOV 15 2004
JANET WILLIAMS, CLERK & MASTER
BY: Selena Wix D.C.

**ORDER APPROVING TRANSFER OF SENTINEL TRUST COMPANY,
IN LIQUIDATION'S FIDUCIARY POSITIONS TO SUCCESSOR
FIDUCIARIES AND GRANTING RELATED RELIEF**

On November 4, 2004, the Commissioner-in-Possession and Receiver of Sentinel Trust Company, in Liquidation filed a motion requesting the Court to approve the transfer of fiduciary positions held by Sentinel Trust Company, in Liquidation to certain successor fiduciaries. That motion also requested various items of relief attendant or related to the transfer of those fiduciary positions. The motion came before the Court for hearing on November 15, 2004.

The Court first observes that the transfer of fiduciary positions held by Sentinel Trust Company to qualified successor fiduciaries is pursuant to authority provided under T.C.A. § 45-2-1504. The process the Commissioner-in-Possession and the Receiver undertook to identify and present successor fiduciaries, as set forth in their motion, was reasonable and has resulted in the proposed transfer of all fiduciary positions on all non-defaulted bond issues.¹ The reasons stated in support of the proposed transfer of fiduciary positions (e.g., to relieve the Sentinel receivership of much of the expense of running the day-to-day operations of a trust

¹ Additionally, three (3) defaulted bond issues are amongst the bond issues which the Commissioner-in-Possession and the Receiver seek approval of the transfer of fiduciary positions to successor fiduciaries.



company and providing all involved with the bond issues with certainty going forward relating to who would be fulfilling the trustee/fiduciary roles) are compelling.

Accordingly, the Court orders as follows:

- 1) the transfer of the fiduciary positions held by Sentinel Trust Company, as to the bond issues listed in Exhibit A, to SunTrust Bank ("SunTrust") is approved consistent with other matters ordered herein;²
- 2) the form of an agreement between, and as approved by, SunTrust and the Receiver, in substantially the form attached as Exhibit A-1, is approved;
- 3) the transfer of the fiduciary positions held by Sentinel Trust Company, as to the bond issues listed in Exhibit B, to the Bank of Oklahoma is approved consistent with other matters ordered herein;³
- 4) the form of an agreement between, and as approved by, the Bank of Oklahoma and the Receiver, in substantially the form attached as Exhibit B-1, is approved;

² Since the filing of the Commissioner-in-Possession's and Receiver's motion, the Receiver has been notified of nine (9) bond issues which prefer having Bank of Oklahoma be their successor fiduciary as opposed to SunTrust. Those nine (9) issues are marked through on Exhibit A to this Order and are as follows: Cave Springs, Georgia 1994 Series, Cave Springs, Georgia 1996 Series, Dade City, Florida 1996 Series, Dublin, Georgia IDA 1994 Series, Highland County, Florida 1994 Series, Jackson, Tennessee 1989 Series, Jackson, Tennessee 1993 Series, Sumner County, Tennessee HEFB Series and Walton County, Florida 1996 Series. Another bond issue, Houston County, Georgia Series 1998, has expressed a preference to remain with the Sentinel Trust Receiver as opposed to being transferred to SunTrust. That bond issue has also been redacted from Exhibit A to this Order. Because the Receiver was on notice prior to the hearing date of this motion regarding the preferences of these ten (10) bond issues, this Order does not effect a transfer of fiduciary positions as to those ten (10) bond issues. The parties will have until December 1, 2004 to announce or otherwise have heard any matters regarding the disposition of the fiduciary positions of those ten (10) bond issues.

³ The Receiver has been notified prior to the hearing that the Redford County, Michigan Z-Tec bond issue, which is in default and has been scheduled to stay with the receivership (see Exhibit F to Motion), desires to have the Bank of Oklahoma as its successor fiduciary. This request will be the subject of either announcement or further hearing on December 1, 2004.

- 5) the transfer of the fiduciary positions held by Sentinel Trust Company, as to the bond issues listed in Exhibit C, to Wachovia Bank, N.A. ("Wachovia") is approved consistent with other matters ordered herein;
- 6) the form of an agreement between, and as approved by, Wachovia and the Receiver, in substantially the form attached as Exhibit C-1, is approved;
- 7) the transfer of the fiduciary positions held by Sentinel Trust Company, as to the bond issues listed in Exhibit D, to the Huntington National Bank ("The Huntington") is approved consistent with other matters ordered herein;
- 8) the form of an agreement between, and as approved by, The Huntington and the Receiver, in substantially the form attached as Exhibit D-1, is approved;

As noted previously, the motion filed by the Commissioner-in-Possession and the Receiver requested other items of relief attendant or in relation to the proposed transfer of the fiduciary positions. Having approved those transfers above, the Court now rules upon those other requests for relief.

The Commissioner-in-Possession and the Receiver request that the date of December 15, 2004 be established as the deadline by which the transfer of all fiduciary positions be accomplished and the date after which they retain no fiduciary positions in relation to the bonds listed in Exhibits A-D to this Order. The Court finds that December 15, 2004 is an appropriate date after which the Commissioner-in-Possession and the Receiver will cease to have fiduciary responsibilities as to the transferred bond issues. December 15, 2004 is at or about the time when bondholder listings for January 2005 payments are verified and finalized. Transfer by that date would assure that the successor fiduciaries will be in their respective positions from the beginning of the 2005 calendar year. Also, December 15, 2004 allows thirty (30) days to pass

from the entry of this Order. Accordingly, the Court hereby orders that the transfer of fiduciary positions approved in this Order be completed on or before December 15, 2004 and further orders that, after that date, the Commissioner-in-Possession and Receiver have no further responsibilities or liabilities regarding the fiduciary positions so transferred.

The Commissioner-in-Possession and Receiver request an order requiring that payment of fees and expenses owed to Sentinel Trust Company and/or the Receiver (listed in Exhibits H-K to the motion) be paid prior to the transfer of the books and records from the Receiver that relate to the particular bond issue upon which fees and expenses are owing. The Commissioner-in-Possession and Receiver further request that the fees and expenses at issue be paid by the borrower (if the bond issue is a private activity/corporate bond issue) or the issuer (if the bond issue is a general obligation/revenue governmental bond issue).

The Court finds, and orders, that the fees and expenses outlined in Exhibits H-K to the instant motion, along with reasonable expenses incurred after the date of this Order attendant to the fiduciary positions being transferred, should be paid to the Receiver prior to the Receiver having the obligation to transfer the books and records of any particular bond issue to the particular successor fiduciary. The Sentinel receivership must have funds upon which to operate, and the payment of these fees and expenses are a source of non-fiduciary funds that could be used for that purpose. Moreover, the Court finds, and orders, that the borrower (in the case of private activity/corporate bond issues) and the issuer (in the case of general obligation/revenue governmental bond issues) are the entities that should pay the fees and expenses at issue. These are the entities that had been paying fees to Sentinel Trust prior to the receivership and who would have been looked to by Sentinel Trust for payment of the fees had the receivership not be instituted.

As a final matter on the topic of fees and expenses, the Court is aware of limited instances wherein the amounts listed in Exhibits H-K to the instant motion are disputed, objected to or otherwise might not be accurate as to what fees are owing. Therefore, the Court orders that, to the extent identified in footnote 4 below, the Receiver and the objecting entity are to attempt to address and reconcile any dispute or inaccuracy regarding fees and expenses owed.⁴ The Court further orders that all such disputes that are not resolved are to be brought for hearing on December 1, 2004. Nevertheless, the Court herein orders that, to the extent that the fees and expenses have not been objected to or disputed by this date (or are later agreed to if presently objected to or disputed) and to the extent that additional reasonable expenses may need to be added to the existing amounts, those fees and expenses are to be paid to the Receiver by the borrower (in the case of private activity/corporate bond issues) or the issuer (in the case of general obligation/revenue governmental bond issues) prior to December 15, 2004, and the Receiver is under no obligation to transfer the books and records of any particular bond issue to the applicable successor fiduciary until the fees and expenses owed as to that bond issue are paid.

The Commissioner-in-Possession and the Receiver seek, as part of this Court's Order, that amounts of less than \$25.00 that exist in post- May 18, 2004 bond fund accounts revert to the Receiver. These amounts exist in very few instances and have resulted because those small amounts were not used to make bondholder payments due to computation or rounding errors.

⁴ The Receiver has been notified that the fees and expenses identified with the following bond issues are contested as to amount: Cave Springs, Georgia 1994 Series, Cave Springs, Georgia 1996 Series, Dade City, Florida 1996 Series, Dublin, Georgia IDA 1994 Series, Highland County, Florida 1994 Series, Jackson, Tennessee 1989 Series, Jackson, Tennessee 1993 Series, Sumner County, Tennessee HEFB Series, Walton County, Florida 1996 Series, Redford, Michigan Z-Tec bond issue, Liberty County, Georgia Series 1992, Madison Health Partners Series, Beckley Health Partners Series, Athens Health Partners Series, Barboursville Health Partners Series, Jackson Health Partners Series and Gallia Health Partners Series.

The Court finds that the request is reasonable and orders that the amounts noted in Exhibit L to the pending motion (i.e., a total of \$51.99), and any additional amounts of less than \$25.00 resulting from the December 2004 bond issue payments, revert to the Receiver for general use in the Sentinel receivership.

The Commissioner-in-Possession and the Receiver also request that the Court order that, to the extent that claims of \$500.00 or less exist against the deficiency in the Sentinel Pooled Trust Account, those claims should be deemed *de minimus*, and the Receiver should be given the ability to reject such claims. The Court finds, and orders, that it is reasonable to set a *de minimus* claim amount, in anticipation of the proof of claim process being instituted in the Sentinel receivership, and orders that claims of \$500.00 or less be deemed *de minimus* and may be rejected by the Receiver going forward in the proof of claim process.

Next, the Commissioner-in-Possession and the Receiver request the Court to order that, to the extent that bondholder claims exist as against the Sentinel receivership estate, those claims should be made by the applicable successor fiduciary and any notice regarding claims or matters impacting upon bondholders need only be given to the successor fiduciary. The Court finds, and orders, that, to enhance the efficiency and to contain the costs of the Sentinel Trust receivership (and the proof of claim process that will be instituted in relation thereto), bondholder claims against the receivership estate are to be made by and through the successor fiduciary and notice to the applicable successor fiduciary concerning claims, claim procedures and claim processing will be adequate notice to the bondholders.

The Commissioner-in-Possession and Receiver also request the Court to enter, as part of its Order, that the transfer of fiduciary positions to the successor fiduciaries not include transfer of rights or claims against third parties that are not unique to, or parties to, any particular bond

issue or bond document such as guarantors or borrowers. The Court finds, and orders, that such a limitation is warranted to avoid "races to courthouses," and such a limitation is consistent with the overriding authority of the Commissioner-in-Possession to exclusively pursue third parties on behalf of the Sentinel Trust receivership and its claimants and creditors.

The final request made by the Commissioner-in-Possession and the Receiver in their motion is for this Court to order that the successor fiduciaries approved through this Order be protected from liability and claims for matters occurring before their appointment. To that end, it is ordered that, in their capacities as successor trustees, those approved by the Court herein shall have no duty, including the duty to inquire, and, in their capacities as successor trustees, no responsibility or liability (outside of the proof of claim process) with respect to the bond issues for any events occurring before their appointments or any actions or omissions of any predecessor fiduciary.

There appearing no reason or just cause for delay, this Court finds that this Order shall constitute a final, appealable Order on the matters covered and shall be considered as such upon entry on the docket. Rule 54 Tenn.R.Civ.P.

All of these matters are so ORDERED, this the 15 day of November, 2004.



Hon. R.E. Lee Davies

Submitted for Approval


Janet M. Kleinfelter, Senior Counsel *(per se)*

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This is to further certify that on November 16th, 2004 a copy of the foregoing Order and Exhibits have been sent by First Class U.S. Mail, postage prepaid, to all listed below:

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Lisa Ford, Administrator
The Inn at Chappel Creek
6010 West Lake Road
Vermilion, OH 44089

Fort Pierce, FL ACCI
Atlantic Community Care, Inc.
Attn: President
20505 U. S. Highway 19 North, Suite 170
Clearwater, FL 33764

Gilchrist County, Florida
Mitchell Friedman, President
Homestead, Inc.
P.O. Box 07255
Fort Myers, FL 33919

Faye D. Hurst
Administrator
Tri-County Nursing Home
7280 SW State Road 26
Trenton, FL 32693

Hiawatha, KS
Lesa Duryea, Administrator
Maple Heights Nursing and
Rehabilitation Center
302 E. Iowa Street
Hiawatha, KS 66434

Houston County, Georgia
Lawrence W. O'Neal
O'Neal, Long & Hall LLP
311 Margie Drive
Warner Robins, GA 31088

Kathy Brantley
Victoria's Garden
1010 Wouth Houston Lake Road
Warner Robins, GA 31088

Lowndes County, Alabama
Lowndes County Commission
Jacqueline J. Thomas, Admin.
P.O. Box 65
Hayneville, AL 36040

Metro Nashville Skyview
Skyview Apartments
Robert Trent
First Cumberland Properties, Inc.
5020 Harpeth Drive
Brentwood, TN 37027

New Jersey EDA Arcadia
Michael Gabriel
Arcadia Nursing and Rehabilitation Center
1501 State Highway #33
Hamilton Square, NJ 08690

Niceville-Okaloosa, FL
J.R. Lewis, President
Care Centers Mgt. Group, Inc.
2020 North Park, Ste. 420
Johnson City, TN 37604

Raleigh County, West Virginia
Beckley Health Partners, LTD
C/O Chancellor Health Partners, Inc.
Attn: Roger Vincent, President
Easton Town Center
4100 Regent St., Suite F
Columbus, OH 43219

Redford, Michigan
Ellis Breskman, President
Z Technologies Corporation
26500 Capital Avenue
Redford, MI 48239-2597

Roane County, Tennessee
Craig Hayes
Sun Healthcare Group, Inc.
101 Sun Ave. Northeast
Albuquerque, NM 87109

Rome-Floyd, Georgia
Craig Hayes
Sun Healthcare Group, Inc.
101 Sun Avenue Northeast
Albuquerque, NM 87109

Rusk County, Texas
Harvest Senior Services, Inc.
Attn: Lynn Hodges
4008 Vista Road, Ste C-210
Pasadena, TX 77504

Stephens County, Georgia
Toccoa Falls College
Paul S. Willard
P.O. Box 800750
Toccoa Falls, GA 30598

Tarrant County, Texas
Community Health Care Found.
5500 39th Street
Groves, TX 77619

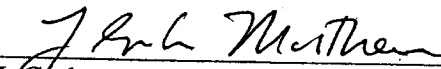
SUNTRUST BANK
Geraldine P. Kail
Senior Vice President
Corporate Trust Division
225 East Robinson Street
Suite 250
Post Office Box 44
Orlando, Florida 32802-0044

BANK OF OKLAHOMA, NA
Marrien Neilson
One Williams Center, BOK Tower
Corporate Trust, 15th Floor
Tulsa, Oklahoma 74103

WACHOVIA BANK, NA
Caroline Oakes
Vice President and Managing Director
2525 West End Avenue, Suite 1200
Nashville, TN 37203

DEUTSCHE BANK NATIONAL TRUST
COMPANY
Dennis D. Gillespie
Vice President
6810 Crumpler Blvd
Suite 100
Olive Branch, MS 38654

THE HUNTINGTON NATIONAL BANK
Rita Merry, Assistant Vice President
Corporate Trust
7 Easton Oval
Columbus, OH 43219


J. Graham Matherne

45273016.2

EXHIBIT 12

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company)
)
)
)

Case No. 478 JANET WILLIAMS, CLERK & MASTER
BY: *Janet Williams*

FILED
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**ORDER REGARDING PAYMENT OF FEES AND EXPENSES
AS TO THOSE BOND ISSUES WHICH HAD PREVIOUSLY OBJECTED**

On November 15, 2004, the Court entered an Order which approved transfer of fiduciary positions and which ordered, amongst other matters, that payment of fees and expenses claimed by the Sentinel Trust Receiver be paid prior to December 15, 2004 and prior to the Receiver having any obligation to transfer the books and records of any particular bond issue to the successor fiduciary. That Order expressly excluded fees and expenses associated with nineteen (19) bond issues because, prior to the November 15, 2004 hearing, the Receiver had received notice that the fees and expenses as to those bond issues were objected to or were potentially inaccurate.

Agreement has now been reached between the Receiver and each of the borrowers¹ of those bond issues. On November 24, 2004, the Commissioner-in-Possession and Receiver filed an Announcement of Agreements and Motion for Order Regarding Payment of Fees and Expenses with regard to the nineteen (19) bond issues which had originally objected to the payment of fees and expenses. The Announcement and Motion contained a specific listing of the bond issues involved, and Schedules of the agreed upon fees and expenses for each bond issue

¹ In the case of the Redford, Michigan Z-Tech Bond Issue, which is in default, agreement has been reached with the principal bondholder.

EXHIBIT


tabbies
12

were attached to the Motion as Exhibits A-D. That Announcement and Motion came before the Court for hearing on December 1, 2004.

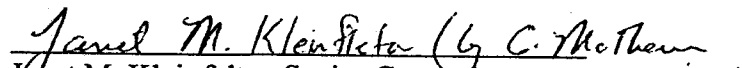
All objections to fees and expenses communicated to the Receiver prior to the Court's November 15, 2004 Order having been addressed, it is, therefore, ORDERED that the amounts listed in Exhibits A-D to the Motion, which are attached as Exhibits A-D to this Order, will be paid prior to December 15, 2004 and that the Receiver is under no obligation to transfer the books and records of any particular bond issue to its successor fiduciary until such payment is made.

There appearing no reason or just cause for delay, this Court finds that this Order shall constitute a final, appealable Order on the matters covered and shall be considered as such upon entry on the docket. Rule 54 Tenn.R.Civ.P.

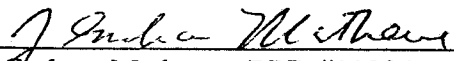
All of these matters are so ORDERED, this the 1 day of Dec, 2004.


Hon. R.E. Lee Davies

Submitted for Approval


Janet M. Kleinfelter, Senior Counsel (by C. McThern
Office of the Attorney General 4 permission)
Financial Division
425 5th Avenue North
P.O. Box 20207
Nashville, TN 37243
(615) 741-7403

*Counsel for the Hon. Kevin P. Lavender,
Commissioner-in-Possession of Sentinel
Trust Company, in Liquidation*


J. Graham Matherne, BPR #11294
Wyatt, Tarrant & Combs, LLP
2525 West End Avenue, Suite 1500
Nashville, TN 37203-1423
(615) 244-0020

*Counsel for Jeanne Barnes Bryant and
Receivership Management, Inc., Receiver
of Sentinel Trust Company, in Liquidation*

CERTIFICATE OF SERVICE

This is to certify that on December 1st, 2004 a copy of the foregoing Order has been sent by First Class U.S. Mail, postage paid, to:

William B. Hubbard
Weed, Hubbard, Berry & Doughty
SunTrust Bank Bldg., Suite 1420
201 Fourth Avenue North
Nashville, TN 37219

Donald Schwendimann
306 W. Main Street
P.O. Box 366
Hohenwald, TN 38462

James S. Chase
John A. Decker
Hunton & Williams LLP
900 South Gay Street, Suite 2000
P.O. Box 951
Knoxville, TN 37901

Thomas Lawrence Stewart
Stokes, Bartholomew, Evans & Petree
424 Church Street, Suite 2800
Nashville, TN 37219

Diana M. Thimmig
Roetzel & Andress
1375 East Ninth Street
One Cleveland Center, Ninth Floor
Cleveland, OH 44114

Carrol Kilgore
Branstetter, Kilgore, Stranch & Jennings
227 Second Avenue North
4th Floor
Nashville, TN 37201

James S. Hereford, Jr.
310 W. College Street
P.O. Box 802
Fayetteville, TN 37334-0802

John C. Herman
Duane Morris LLP
1180 West Peachtree Street, Suite 700
Atlanta, GA 30309

David D. Peluso
106 East Main Street
Hohenwald, TN 38462

R. Chix Miller
Sell & Melton, L.L.P.
577 Mulberry Street, 14th Floor
Macon, GA 31201

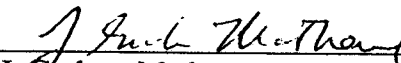

J. Graham Matherne

EXHIBIT 13

**IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE**

In re:

SENTINEL TRUST COMPANY

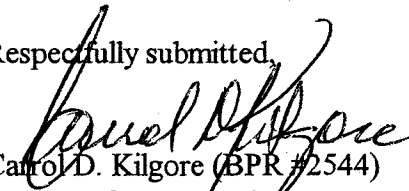
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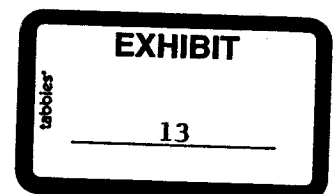
Respondents' Danny N. Bates, et al.,
Notice of Appeal from Final Judgment
Approving the Transfer of Sentinel's Fiduciary Positions, and
from all Subsequent Final Judgments Herein

Original Respondents Danny N. Bates, Clifton T. Bates, Howard H. Cochran, and Gary L. O'Brien, in their capacities as duly-elected and serving Directors of Sentinel Trust Company, Danny N. Bates, who owns most and controls all outstanding stock in the said corporation, and by Sentinel Trust Company itself (to such extent as Sentinel's directors may retain authority to defend it against its attempted destruction by the Tennessee Commissioner of Financial Institutions), all hereinafter collectively referred to as "Respondents," hereby

APPEAL to the Court of Appeals of Tennessee, Middle Section, from the final judgment entered by this Court on November 15, 2004, in the matter as styled above and from each and every final judgment so entered and designated as such by the Court since November 15, 2004.

Respectfully submitted,


Carol D. Kilgore (BPR #2544)
Attorney for Respondents
227 Second Avenue, North
Nashville, Tennessee 37201-1693
(615) 254-8801



CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing NOTICE OF APPEAL was mailed this December

10, 2004, by U. S. Mail, postage prepaid, to the following:

JANET M. KLEINFELTER, ESQ.
Financial Division
Attorney-General of Tennessee
425 Fifth Avenue, North
Nashville, Tennessee 37243.

Graham Matherne, Esq.
WYATT, TARRANT & COMBS
2525 West End Avenue
Nashville, TN 37203-1423

Donald Schwendimann, Esq.
306 W. Main Street
P.O. Box 366
Hohenwald, TN 38462

Larry Stewart, Esq.
Stokes, Bartholomew, Evans & Petree
424 Church Street, Suite 2800
Nashville, TN 37219

David D. Peluso, Esq.
106 East Main Street
Hohenwald, TN 38462

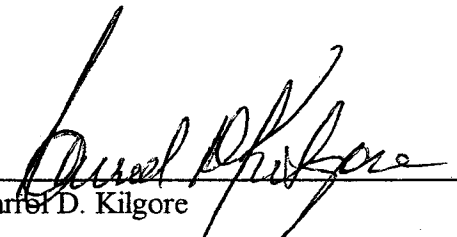
James S. Hereford, Jr., Esq.
310 W. College Street
P.O. Box 802
Fayetteville, TN 37334-0802

William B. Hubbard, Esq.
Weed, Hubbard, Berry & Doughty
SunTrust Bank Bldg., Suite 1420
201 Fourth Avenue North
Nashville, TN 37219

Diana M. Thimmig, Esq.
Roetzel & Andress
1375 East Ninth Street
One Cleveland Center, Ninth Floor
Cleveland, OH 44114

James S. Chase
John A. Decker
Hunton & Williams LLP
900 South Gay Street, Suite 2000
P.O. Box 951
Knoxville, TN 37901

John C. Herman
Duane Morris LLP
1180 West Peachtree Street, Suite 700
Atlanta, GA 30309


Carol D. Kilgore

COLLECTIVE

EXHIBIT 14

IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE

IN RE:

SENTINEL TRUST COMPANY

NO. 4781

11:56
AM
FILED
DEC 07 2004
PM

JANET WILLIAMS, CLERK & MASTER
BY: Selena D. D.C.

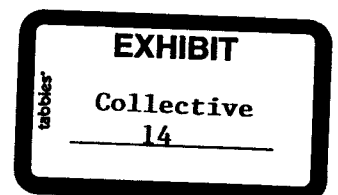
MOTION FOR APPROVAL OF RECEIVER,
OUTSIDE COUNSEL AND THIRD PARTY CONTRACTORS FEES

Kevin P. Lavender, Commissioner of the Department of Financial Institutions for the State of Tennessee, and Jeanne Barnes Bryant, Receiver of Sentinel Trust Company, move this Court for an Order approving the fees presented for payment by the Receiver, outside counsel and third party contractors. Pursuant to the attached Order of this Court, all Receiver, counsel fees and fees for third party litigation support are filed with the Court under seal and amounts of fees and time frames covered (as shown herein) are sent to non-privileged parties.

1. The Commissioner of Financial Institutions entered a Notice of Possession for Sentinel Trust Company on May 18, 2004, and subsequently filed a Notice of Liquidation on June 18, 2004.

2. Pursuant to Tenn. Code Ann. § 45-2-1502(b)(2), the Commissioner appointed Jeanne Barnes Bryant as Receiver for Sentinel Trust Company.

3. Pursuant to Tenn. Code Ann. § 45-2-1504(h)(1)(A), compensation for the Receiver is fixed by the Commissioner of the Department of Financial Institutions, and is payable from the funds or assets of the receivership estate. The Receiver will be reimbursed monthly for work incurred for the receivership estate, in the amount of \$115.00 per hour. The Receiver submits invoices to the Commissioner and the Tennessee Department of Financial Institutions on a



monthly basis for approval prior to payment. These invoices are reviewed and paid after approval of the Commissioner and his staff.

4. The Receiver, Jeanne Barnes Bryant, performed work for this receivership, as shown on the attached Exhibit for the period of October 1, 2004 – October 31, 2004 in the amount of \$11,824.00 (detailed invoices of which are filed Under Seal). Those working under Ms. Bryant (Mr. Spaulding, Ms. Batey and Ms. Forton) have performed work for the receivership as shown in the attached material for the period October 1, 2004 – October 31, 2004 in the amount of \$17,895.52 (detailed invoices of which are filed Under Seal). The Commissioner and his staff have determined these fees to be reasonable, appropriate and necessary for the services rendered for the receivership. These fees have been approved for payment. See also, Affidavits of Jeanne Barnes Bryant and Commissioner Kevin P. Lavender filed herewith.

5. The fee arrangements with outside counsel and the third party contractors were originally negotiated between the parties pursuant to the Notice of Possession dated May 18, 2004. The hourly rate agreed to regarding services performed by the outside counsel of Wyatt, Tarrant & Combs has been \$175/hour. In support of this Motion, the Receiver would rely upon her affidavit filed herewith, the affidavit of Commissioner Lavender filed herewith and the billing statements attached hereto (detailed invoices of which are filed Under Seal).

6. The Receiver, the Commissioner and his staff have reviewed all of the Wyatt, Tarrant & Combs outside counsel's billings, and have found the fees to be fair, reasonable and proper for the services provided. The Receiver, the Commissioner and his staff have also reviewed the billings of Receivership Management, Inc. and have found these fees to be fair, reasonable and proper for the services provided.

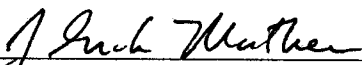
7. There are counsel previously engaged by Sentinel Trust pursuing various defaulted bond issues in several states. As believed to be necessary by the Receiver, counsels have been instructed to continue work on a number of default issues. Depending on the work completed during each monthly reporting period to the Court, the counsel will be listed separately, and approval requested for payment. The counsel work for which approval for payment for invoices presented to the Receiver during this time period is listed below. The Receiver has reviewed the invoices submitted by Moore & Van Allen PLLC, Bradley Arant, Dover Dixon Horne PLLC, Waller Lansden Dortch & Davis, Williams & Prochaska, James A. Skinner and Strasburger & Price, LLP (detailed invoices being filed Under Seal). The Receiver believes this work to have been necessary and reasonable to continue work concerning the default bond issues.

8. The billings so reviewed, and for which Court approval is sought, are as follows:
- A. Invoices for Jeanne Barnes Bryant for October 1, 2004 through October 31, 2004 in the amount of \$11,824.00.
 - B. Invoices for Receivership Management, Inc. for October 1, 2004 through October 31, 2004 in the amount of \$17,895.52.
 - C. Invoices for Wyatt, Tarrant & Combs for October 1, 2004 through October 31, 2004 in the amount of \$34,942.75.
 - D. Invoices for Moore & Van Allen for September 1, 2004 through September 30, 2004 in the amount of \$365.50.
 - E. Invoices for Bradley Arant for September 1, 2004 through September 30, 2004 in the amount of \$64.00.

- F. Invoices for Dover Dixon Home for October 1, 2004 through October 31, 2004 in the amount of \$167.20.
- G. Invoices for Waller Lansden Dortch & Davis for September 1, 2004 through September 30, 2004 in the amount of \$1,475.50.
- H. Invoices for Williams & Prochaska for September 1, 2004 through October 31, 2004 in the amount of \$3,773.50.
- I. Invoices for James A. Skinner for October 1, 2004 through October 31, 2004 in the amount of \$3,876.83.
- J. Invoices for Strasburger & Price for October 1, 2004 through October 31, 2004 in the amount of \$275.00.

Accordingly, the Commissioner and Receiver respectfully move this Court for an Order approving the fees set forth in the attached schedule as indicated pursuant to T.C.A. Section 45-2-1504(h)(1)(A).

Respectfully submitted,



J. Graham Matherne, BPR #11294
Wyatt, Tarrant & Combs, LLP
2525 West End Avenue
Suite 1500
Nashville, TN 37203-1423
(615) 244-0020

Counsel for Jeanne Barnes Bryant and Receivership
Management, Inc., Receiver of Sentinel Trust Co

Janet M. Kleinfelter (G. C. McPherson)
Janet M. Kleinfelter

Counsel for Commissioner Kevin Lavender
Attorney General's Office
425 5th Avenue North
P.O. Box 20207
Nashville, TN 37243

**THIS MOTION IS SET TO BE HEARD ON THE 15th DAY OF December, 2004
AT 9:00 A.M. IN HOHENWALD, LEWIS COUNTY, TENNESSEE.**

CERTIFICATE OF SERVICE

This is to certify that on December 7th, 2004 a copy of the foregoing Motion has been sent by First Class U.S. Mail, postage paid, to:

Janet M. Kleinfelter
Senior Counsel
Financial Division
425 5th Avenue North
P.O. Box 20207
Nashville, TN 37243

Carrol Kilgore
Branstetter, Kilgore, Stranch & Jennings
227 Second Avenue North
4th Floor
Nashville, TN 37201

Donald Schwendimann
306 W. Main Street
P.O. Box 366
Hohenwald, TN 38462

Larry Stewart
Stokes, Bartholomew, Evans & Petree
424 Church Street, Suite 2800
Nashville, TN 37219

David D. Peluso
106 East Main Street
Hohenwald, TN 38462

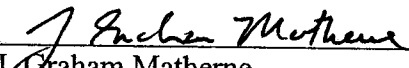
James S. Hereford, Jr.
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James S. Chase
John A. Decker
Hunton & Williams LLP
900 South Gay Street, Suite 2000
P.O. Box 951
Knoxville, TN 37901

John C. Herman
Duane Morris LLP
1180 West Peachtree Street, Suite 700
Atlanta, GA 30309


J. Graham Matherne

**IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE**

IN RE:

SENTINEL TRUST COMPANY

)
)
) **No. 4781**
)
)

AFFIDAVIT OF COMMISSIONER KEVIN P. LAVENDER

I, Kevin P. Lavender, after having been first duly sworn, do attest as follows:

1. I am of majority age and have personal knowledge of the facts set forth herein.

2. I am the Commissioner of the Tennessee Department of Financial Institutions. I took emergency possession of Sentinel Trust Company on May 18, 2004 and appointed Receivership Management, Inc. as the Receiver for Sentinel Trust Company.

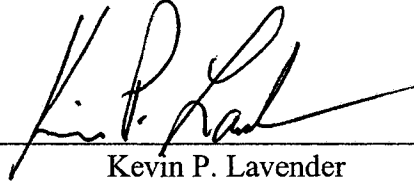
3. Either I, or my staff at my direction, have reviewed the fees and invoices contained in this filing for the services performed by the Receiver for the period October 1, 2004 – October 31, 2004.

4. Based on the recommendations of my staff, I have determined that the rates being charged by the Receiver are either at a discounted or market rate for the services provided.

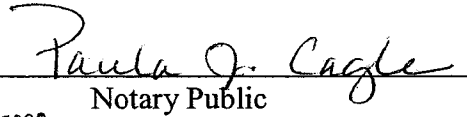
5. Either I, or my staff at my direction, have reviewed the invoices and fees presented by the Receiver and I have determined that all of the services noted are fair, reasonable, and proper for the services provided, and that they are necessary costs of this receivership. The invoices and fees attached as Exhibits to the Motion note the work performed, the amount charged, and the person performing the work. No billings were excessive or duplicative.

6. Furthermore, either I, or my staff have reviewed the fees for Legal Counsel and Third Party Contractors approved by the Receiver and presented with this filing, and based on the recommendations of the Receiver, I have determined that these fees are fair, reasonable and proper for the services provided. All fees will be reviewed on a monthly basis prior to payment.

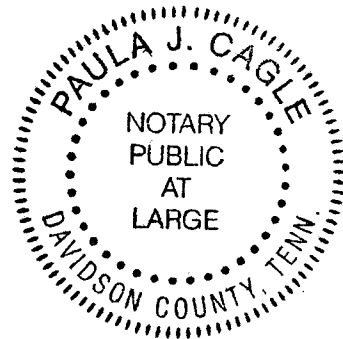
FURTHER AFFIANT SAITH NOT.


Kevin P. Lavender

Subscribed and sworn to before me by Kevin P. Lavender, on this the 3rd day
of December, 2004.


Notary Public

My Commission Expires: _____
My Commission Expires NOV. 25, 2006



**IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE**

IN RE:

SENTINEL TRUST COMPANY

NO. 4781

AFFIDAVIT OF JEANNE BARNES BRYANT

I, Jeanne Barnes Bryant, after being duly sworn, state as follows:

1. I am of majority age and have personal knowledge of the facts set forth herein. I submit this Affidavit in support of the Motion for approval of fees as Receiver and for approval of counsel and third party contractor fees.

2. As Receiver appointed by the Commissioner, I have been responsible for the administration Notice of Possession entered by the Commissioner on May 18, 2004.

3. As Receiver, I have filed for interim fees in the Sentinel receivership in the amount of \$11,824.00. This amount is due for the period of time October 1, 2004 – October 31, 2004.


4. The fees presented for approval were necessary for the work provided and are not duplicative or excessive. I believe the fees presented for approval are fair, reasonable, and proper for the services provided.

5. I am responsible for engaging and approving all third party contractors and for approving fees of legal counsel engaged by the Commissioner, all of whose fees are contained in this Motion. The invoices and fees attached as Exhibits to the Motion note the work performed, the amount charged, and the person performing the work. The invoices are filed with the Court under seal. I have determined that the rates being charged by the contractors and counsel are either at a discounted or market rate in their area for the services provided.

6. I have reviewed the individual invoices submitted for work by all the third party contractors. I have also reviewed the billings submitted for work by outside counsel for the period of September 1, 2004 through September 30, 2004. I have determined that the fees were necessary for the work provided and are not duplicative or excessive. I have submitted all invoices to the Department for approval on a monthly basis. All invoices may be paid subsequent to receiving approval from the Commissioner each month.

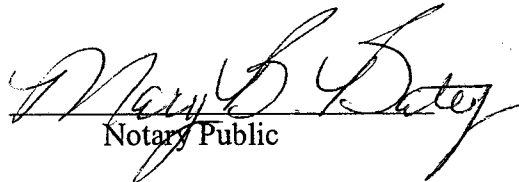
7. I believe that all fees presented for approval contained in this filing are fair, reasonable, and proper for the necessary services provided.

FURTHER AFFIANT SAITH NOT.


JEANNE BARNES BRYANT (5835)

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

Sworn to and subscribed before me this 29th day of November 2004.


Notary Public

My commission expires: 5-19-07

INTERIM FEE SCHEDULE

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
10/04	Jeanne Barnes Bryant - October 2004	11,500.00
10/04	JBB Expenses - October 2004	<u>324.00</u>
	TOTAL RECEIVER FEES	\$11,824.00

OUTSIDE COUNSEL

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
10/04	Wyatt Tarrant & Combs - October 2004 INV 608289	13,935.70
10/04	Wyatt Tarrant & Combs - October 2004 INV 608290	1,870.75
10/04	Wyatt Tarrant & Combs - October 2004 INV 608291	35.90
10/04	Wyatt Tarrant & Combs - October 2004 INV 608292	5,608.14
10/04	Wyatt Tarrant & Combs - October 2004 INV 608293	402.50
10/04	Wyatt Tarrant & Combs - October 2004 INV 608294	427.00
10/04	Wyatt Tarrant & Combs - October 2004 INV 608295	2,477.40
10/04	Wyatt Tarrant & Combs - October 2004 INV 608296	162.31
10/04	Wyatt Tarrant & Combs - October 2004 INV 608297	3,477.30
10/04	Wyatt Tarrant & Combs - October 2004 INV 608298	361.10
10/04	Wyatt Tarrant & Combs - October 2004 INV 608299	<u>6,184.65</u>
	TOTAL WYATT, TARRANT & COMBS FEES	\$34,942.75
10/04	Moore & Van Allen PLLC - September 2004	<u>\$365.50</u>
	TOTAL MOORE & VAN ALLEN FEES	\$365.50
10/04	Bradley Arant - September 2004	<u>\$64.00</u>
	TOTAL BRADLEY ARANT FEES	\$64.00
10/04	Dover Dixon Horne PLLC - October 2004	<u>\$167.20</u>
	TOTAL DOVER DIXON HORNE FEES	\$167.20
10/04	Waller Lansden Dortch & Davis - September 2004	<u>\$1,475.50</u>
	TOTAL WALLER LANSDEN FEES	\$1,475.50
10/04	Williams & Prochaska - September 2004	\$2,669.00
10/04	Williams & Prochaska - October 2004	<u>\$1,104.50</u>
	TOTAL WILLIAMS & PROCHASKA FEES	\$3,773.50
10/04	James A. Skinner	<u>\$3,876.83</u>
	TOTAL JAMES A SKINNER FEES	\$3,876.83
10/04	Strasburger & Price, LLP - September 2004	<u>\$275.00</u>
	TOTAL STRASBURGER & PRICE FEES	\$275.00
	TOTAL OUTSIDE COUNSEL FEES	\$44,940.28

THIRD PARTY SCHEDULE

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
	<i>Receivership Management, Inc.</i>	
10/04	Billy Spaulding - October 2004	10,692.50
10/04	BS Expenses - October 2004	872.53
10/04	Mary Batey - October 2004	3,508.75
10/04	MB Expenses - October 2004	237.60
10/04	Sarah Forton - October 2004	777.00
10/04	SDF Expenses - October 2004	18.00
10/04	Operating Cost - October 2004	<u>1,789.14</u>
	TOTAL RMI FEES	\$17,895.52
	TOTAL THIRD PARTY FEES	\$17,895.52

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company

)
)
) Case No. 4781
)

FILED
11:56 AM June 30, 2004 PM
JANET WILLIAMS, CLERK & MASTER
BY: Selena W. W. D.C.

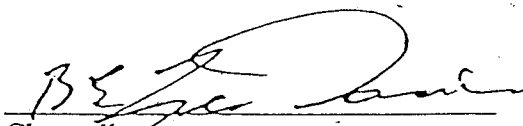
ORDER ALLOWING THE FILING OF FEE SUMMARY
STATEMENTS OF RECEIVER, OUTSIDE COUNSEL AND
THIRD PARTY LITIGATION SUPPORT CONTRACTORS AND
ALLOWING THE FILING UNDER SEAL OF INVOICES CONTAINING
DETAILED DESCRIPTION OF SERVICES RENDERED

Through Motion filed on June 18, 2004, the Receiver of Sentinel Trust Company has requested that in relation to reporting fee information to the Court 1) the detailed invoices relating to fees of herself, outside counsel and third party litigation support contractors be filed under seal, and 2) summaries of such fees be filed publicly. This Motion was heard on June 30, 2004. The Court is persuaded the Motion has merit and the relief requested should be granted.

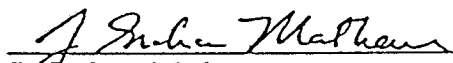
Accordingly, the instant Motion is granted and the Court hereby ORDERS the following:

- a) Public filing regarding fees of the Receiver, outside counsel and third party litigation support contractors shall be limited to summaries of such information -- i.e., name of recipient, time over which services were rendered and amount billed, and
- b) Filing of the detailed invoices of services of the Receiver, outside counsel and third party litigation support contractors shall be UNDER SEAL and are to be free from public dissemination, distribution and circulation.

It is so ORDERED, this the 3 day of June, 2004


Chancellor

Submitted and Approved for Entry:


J. Graham Matherne
Wyatt, Tarrant & Combs
2525 West End Avenue, Suite 1500
Nashville, TN 37203-1423
(615) 244-0020

Counsel for Jeanne Barnes Bryant and
Receivership Management, Inc.
Receiver of Sentinel Trust Company

CERTIFICATE OF SERVICE

This is to certify that on June 18, 2004 a copy of the foregoing Notice has been sent by First Class U.S., postage paid, and/or by facsimile transmission to:

Danny Bates
205 Bastin Road
Hohenwald, TN 38462

Bradley S. Lancaster
8448 Indian Hills Drive
Nashville, TN 37221

Howard W. Cochran
3636 Mahlon Moore Road
Spring Hill, TN 37174

Danny N. Bates
Registered Agent for Sentinel Trust Company
29 West Main Street
Hohenwald, TN 38462


Gary L. O'Brien
63 Shady Lane
Hohenwald, TN 38462

Donald Schwendimann
306 W. Main Street
P.O. Box 366
Hohenwald, TN 38462
[FAX] (931) 796-5692

William H. Farmer
Farmer & Luna
333 Union Street, Suite 300
Nashville, TN 37201
[FAX] (615) 254-7123

Cecil D. Branstetter
Branstetter, Kilgore, Stranch & Jennings
227 Second Avenue, North
4th Floor
Nashville, TN 37201
[FAX] (615) 255-5419

Clifton T. Bates
312 Bastin Road
Hohenwald, TN 38462



Graham Matheme

IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE

IN RE:

SENTINEL TRUST COMPANY

)
)
)
)
)

NO. 4781

11:39
AM

FILED

JAN 14 2005

PM

JANET WILLIAMS, CLERK & MASTER
BY: Silena Wix D.C.

**MOTION FOR APPROVAL OF RECEIVER,
OUTSIDE COUNSEL AND THIRD PARTY CONTRACTORS FEES**

Kevin P. Lavender, Commissioner of the Department of Financial Institutions for the State of Tennessee, and Jeanne Barnes Bryant, Receiver of Sentinel Trust Company, move this Court for an Order approving the fees presented for payment by the Receiver, outside counsel and third party contractors. Pursuant to the attached Order of this Court, all Receiver, counsel fees and fees for third party litigation support are filed with the Court under seal and amounts of fees and time frames covered (as shown herein) are sent to non-privileged parties.

1. The Commissioner of Financial Institutions entered a Notice of Possession for Sentinel Trust Company on May 18, 2004, and subsequently filed a Notice of Liquidation on June 18, 2004.

2. Pursuant to Tenn. Code Ann. § 45-2-1502(b)(2), the Commissioner appointed Jeanne Barnes Bryant as Receiver for Sentinel Trust Company.

3. Pursuant to Tenn. Code Ann. § 45-2-1504(h)(1)(A), compensation for the Receiver is fixed by the Commissioner of the Department of Financial Institutions, and is payable from the funds or assets of the receivership estate. The Receiver will be reimbursed monthly for work incurred for the receivership estate, in the amount of \$115.00 per hour. The Receiver submits invoices to the Commissioner and the Tennessee Department of Financial

Institutions on a monthly basis for approval prior to payment. These invoices are reviewed and paid after approval of the Commissioner and his staff.

4. The Receiver, Jeanne Barnes Bryant, performed work for this receivership, as shown on the attached Exhibit for the period of November 1, 2004 – November 30, 2004 in the amount of \$12,194.75 (detailed invoices of which are filed Under Seal). Those working under Ms. Bryant (Mr. Spaulding, Ms. Batey, Rob Moore and Ms. Forton) have performed work for the receivership as shown in the attached material for the period November 1, 2004 – November 30, 2004 in the amount of \$23,006.91 (detailed invoices of which are filed Under Seal). The Commissioner and his staff have determined these fees to be reasonable, appropriate and necessary for the services rendered for the receivership. These fees have been approved for payment. See also, Affidavits of Jeanne Barnes Bryant and Commissioner Kevin P. Lavender filed herewith.

5. The fee arrangements with outside counsel and the third party contractors were originally negotiated between the parties pursuant to the Notice of Possession dated May 18, 2004. The hourly rate agreed to regarding services performed by the outside counsel of Wyatt, Tarrant & Combs has been \$175/hour. In support of this Motion, the Receiver would rely upon her affidavit filed herewith, the affidavit of Commissioner Lavender filed herewith and the billing statements attached hereto (detailed invoices of which are filed Under Seal).

6. The Receiver, the Commissioner and his staff have reviewed all of the Wyatt, Tarrant & Combs outside counsel's billings, and have found the fees to be fair, reasonable and proper for the services provided. The Receiver, the Commissioner and his staff have also reviewed the billings of Receivership Management, Inc. and have found these fees to be fair, reasonable and proper for the services provided.

7. There are counsel previously engaged by Sentinel Trust pursuing various defaulted bond issues in several states. As believed to be necessary by the Receiver, counsel have been instructed to continue work on a number of default issues. Depending on the work completed during each monthly reporting period to the Court, the counsel will be listed separately, and approval requested for payment. The counsel work for which approval for payment for invoices presented to the Receiver during this time period is listed below. The Receiver has reviewed the invoices submitted by Ramey & Flock, Waller Lansden Dortch & Davis, Williams & Prochaska, James A. Skinner and Strasburger & Price, LLP (detailed invoices being filed Under Seal). The Receiver believes this work to have been necessary and reasonable to continue work concerning the defaulted bond issues.

8. The billings so reviewed, and for which Court approval is sought, are as follows:
- A. Invoices for Jeanne Barnes Bryant for November 1, 2004 through November 30, 2004 in the amount of \$12,194.75.
 - B. Invoices for Receivership Management, Inc. for November 1, 2004 through November 30, 2004 in the amount of \$23,006.91.
 - C. Invoices for Wyatt, Tarrant & Combs for November 1, 2004 through November 30, 2004 in the amount of \$43,966.11.
 - D. Invoices for Ramey & Flock for October 1, 2004 through October 31, 2004 in the amount of \$1,085.68.
 - E. Invoices for Waller Lansden Dortch & Davis for June 1, 2004 through October 31, 2004 in the amount of \$5,321.34.
 - F. Invoices for Williams & Prochaska for November 1, 2004 through November 30, 2004 in the amount of \$361.78.

G. Invoices for James A. Skinner for November 1, 2004 through November 30, 2004 in the amount of \$9,379.70.

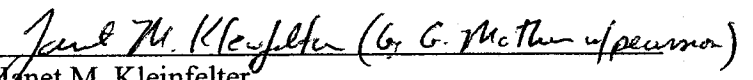
H. Invoices for Strasburger & Price for October 1, 2004 through October 31, 2004 in the amount of \$30.00.

Accordingly, the Commissioner and Receiver respectfully move this Court for an Order approving the fees set forth in the attached schedule as indicated pursuant to Tenn. Code Ann. § 45-2-1504(h)(1)(A).

Respectfully submitted,


J. Graham Matherne, BPR #11294
Wyatt, Tarrant & Combs, LLP
2525 West End Avenue
Suite 1500
Nashville, TN 37203-1423
(615) 244-0020

*Counsel for Jeanne Barnes Bryant and
Receivership Management, Inc.,
Receiver of Sentinel Trust Company*


Janet M. Kleinfelter
Counsel for Commissioner Kevin Lavender
Attorney General's Office
425 5th Avenue North
P.O. Box 20207
Nashville, TN 37243
(615) 741-7403

**THIS MOTION IS SET TO BE HEARD ON THE 21st DAY OF January, 2005
AT 9:00 A.M. IN HOHENWALD, LEWIS COUNTY, TENNESSEE**

CERTIFICATE OF SERVICE

This is to certify that on January 14th, 2005 a copy of the foregoing Motion has been sent by First Class U.S. Mail, postage paid, to:

James S. Chase
John A. Decker
Hunton & Williams LLP
900 South Gay Street, Suite 2000
P.O. Box 951
Knoxville, TN 37901

Carrol Kilgore
Branstetter, Kilgore, Stranch & Jennings
227 Second Avenue North
4th Floor
Nashville, TN 37201

Donald Schwendimann
306 W. Main Street
P.O. Box 366
Hohenwald, TN 38462

Larry Stewart
Stokes, Bartholomew, Evans & Petree
424 Church Street, Suite 2800
Nashville, TN 37219

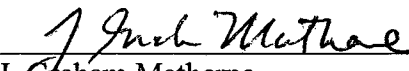
David D. Peluso
106 East Main Street
Hohenwald, TN 38462

James S. Hereford, Jr.
310 W. College Street
P.O. Box 802
Fayetteville, TN 37334-0802

William B. Hubbard
Weed, Hubbard, Berry & Doughty
SunTrust Bank Bldg., Suite 1420
201 Fourth Avenue North
Nashville, TN 37219

Diana M. Thimmig
Roetzel & Andress
1375 East Ninth Street
One Cleveland Center, Ninth Floor
Cleveland, OH 44114

John C. Herman
Duane Morris LLP
1180 West Peachtree Street, Suite 700
Atlanta, GA 30309



J. Graham Matherne

45275781.1

INTERIM FEE SCHEDULE

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
11/04	Jeanne Barnes Bryant - November 2004	11,942.75
11/04	JBB Expenses - November 2004	<u>252.00</u>
TOTAL RECEIVER FEES		\$12,194.75

THIRD PARTY SCHEDULE

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
	<i>Receivership Management, Inc.</i>	
11/04	Billy Spaulding - November 2004	12,012.00
11/04	BS Expenses - November 2004	986.99
11/04	Mary Batey - November 2004	3,465.00
11/04	MB Expenses - November 2004	217.44
11/04	Sarah Forton - November 2004	1,424.50
11/04	SDF Expenses - November 2004	54.00
11/04	Rob Moore - November 2004	2,915.00
11/04	Operating Cost - November 2004	<u>1,931.98</u>
	TOTAL RMI FEES	\$23,006.91
	TOTAL THIRD PARTY FEES	\$23,006.91

OUTSIDE COUNSEL

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
11/04	Wyatt Tarrant & Combs - November 2004 INV 611745	17,826.91
11/04	Wyatt Tarrant & Combs - November 2004 INV 611747	6,563.08
11/04	Wyatt Tarrant & Combs - November 2004 INV 611748	526.48
11/04	Wyatt Tarrant & Combs - November 2004 INV 611749	4,265.80
11/04	Wyatt Tarrant & Combs - November 2004 INV 611750	240.85
11/04	Wyatt Tarrant & Combs - November 2004 INV 611751	21.50
11/04	Wyatt Tarrant & Combs - November 2004 INV 611752	1,010.31
11/04	Wyatt Tarrant & Combs - November 2004 INV 611753	490.00
11/04	Wyatt Tarrant & Combs - November 2004 INV 611754	7,003.49
11/05	Wyatt Tarrant & Combs - November 2005 INV 611755	4,215.12
11/04	Wyatt Tarrant & Combs - November 2004 INV 611756	<u>1,802.57</u>
	TOTAL WYATT, TARRANT & COMBS FEES	\$43,966.11
11/04	Ramey & Flock - October 2004	<u>\$1,085.68</u>
	TOTAL RAMEY & FLOCK FEES	\$1,085.68
11/04	Waller Lansden Dortch & Davis - June and October 2004	<u>\$5,321.34</u>
	TOTAL WALLER LANSDEN FEES	\$5,321.34
11/04	Williams & Prochaska - November 2004	<u>\$361.78</u>
	TOTAL WILLIAMS & PROCHASKA FEES	\$361.78
11/04	James A. Skinner - November 2004	\$760.00
11/04	James A. Skinner - November 2004	\$3,620.00
11/04	James A. Skinner - November 2004	\$1,099.70
11/05	James A. Skinner - November 2004	\$40.00
11/06	James A. Skinner - November 2004	\$1,740.00
11/04	James A. Skinner - November 2004	<u>\$2,120.00</u>
	TOTAL JAMES A SKINNER FEES	\$9,379.70
11/04	Strasburger & Price, LLP - October 2004	<u>\$30.00</u>
	TOTAL STRASBURGER & PRICE FEES	\$30.00
	TOTAL OUTSIDE COUNSEL FEES	\$60,144.61

IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE

IN RE:

SENTINEL TRUST COMPANY

No. 4781

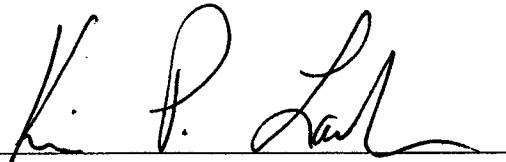
11:39 AM
FILED
JAN 14 2005 PM
JANET WILLIAMS, CLERK & MASTER
BY: Selena Wix D.C.

AFFIDAVIT OF COMMISSIONER KEVIN P. LAVENDER

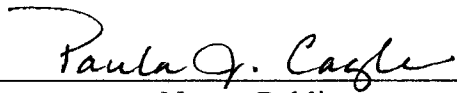
I, Kevin P. Lavender, after having been first duly sworn, do attest as follows:

1. I am of majority age and have personal knowledge of the facts set forth herein.
2. I am the Commissioner of the Tennessee Department of Financial Institutions. I took emergency possession of Sentinel Trust Company on May 18, 2004 and appointed Receivership Management, Inc. as the Receiver for Sentinel Trust Company.
3. Either I, or my staff at my direction, have reviewed the fees and invoices contained in this filing for the services performed by the Receiver for the period November 1, 2004 – November 30, 2004.
4. Based on the recommendations of my staff, I have determined that the rates being charged by the Receiver are either at a discounted or market rate for the services provided.
5. Either I, or my staff at my direction, have reviewed the invoices and fees presented by the Receiver and I have determined that all of the services noted are fair, reasonable, and proper for the services provided, and that they are necessary costs of this receivership. The invoices and fees attached as Exhibits to the Motion note the work performed, the amount charged, and the person performing the work. No billings were excessive or duplicative.
6. Furthermore, either I, or my staff have reviewed the fees for Legal Counsel and Third Party Contractors approved by the Receiver and presented with this filing, and based on the recommendations of the Receiver, I have determined that these fees are fair, reasonable and proper for the services provided. All fees will be reviewed on a monthly basis prior to payment.

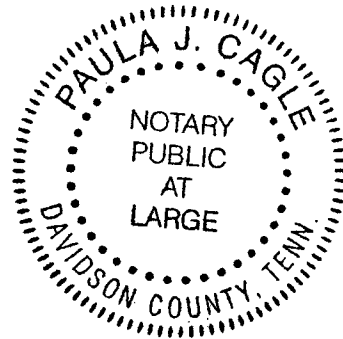
FURTHER AFFIANT SAITH NOT.


Kevin P. Lavender

Subscribed and sworn to before me by Kevin P. Lavender, on this the 21st day
of December, 2004.


Notary Public

My Commission Expires: My Commission Expires NOV. 25, 2006



IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE

IN RE:

SENTINEL TRUST COMPANY

NO. 4781

11:39 AM
FILED
JAN 14 2005 PM
JANET WILLIAMS, CLERK & MASTER
BY: Selena Wix D.C.

AFFIDAVIT OF JEANNE BARNES BRYANT

I, Jeanne Barnes Bryant, after being duly sworn, state as follows:

1. I am of majority age and have personal knowledge of the facts set forth herein. I submit this Affidavit in support of the Motion for approval of fees as Receiver and for approval of counsel and third party contractor fees.

2. As Receiver appointed by the Commissioner, I have been responsible for the administration Notice of Possession entered by the Commissioner on May 18, 2004.

3. As Receiver, I have filed for interim fees in the Sentinel receivership in the amount of \$12,194.75. This amount is due for the period of time November 1, 2004 – November 30, 2004.


4. The fees presented for approval were necessary for the work provided and are not duplicative or excessive. I believe the fees presented for approval are fair, reasonable, and proper for the services provided.

5. I am responsible for engaging and approving all third party contractors and for approving fees of legal counsel engaged by the Commissioner, all of whose fees are contained in this Motion. The invoices and fees attached as Exhibits to the Motion note the work performed, the amount charged, and the person performing the work. The invoices are filed with the Court under seal. I have determined that the rates being charged by the contractors and counsel are either at a discounted or market rate in their area for the services provided.

6. I have reviewed the individual invoices submitted for work by all the third party contractors. I have also reviewed the billings submitted for work by outside counsel for the period of November 1, 2004 through November 30, 2004. I have determined that the fees were necessary for the work provided and are not duplicative or excessive. I have submitted all invoices to the Department for approval on a monthly basis. All invoices may be paid subsequent to receiving approval from the Commissioner each month.

7. I believe that all fees presented for approval contained in this filing are fair, reasonable, and proper for the necessary services provided.

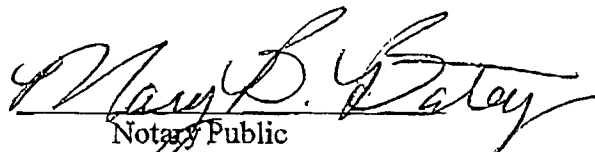
FURTHER AFFIANT SAITH NOT.


JEANNE BARNES BRYANT (5835)

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Sworn to and subscribed before me this 20 day of December, 2004.


Notary Public

My commission expires: 5-19-07

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

In Re: Sentinel Trust Company

)
)
) Case No. 4781
)

FILED
11:56 AM
June 30, 2004 PM
JANET WILLIAMS, CLERK & MASTER
BY: Selena W. W. D.C.


ORDER ALLOWING THE FILING OF FEE SUMMARY
STATEMENTS OF RECEIVER, OUTSIDE COUNSEL AND
THIRD PARTY LITIGATION SUPPORT CONTRACTORS AND
ALLOWING THE FILING UNDER SEAL OF INVOICES CONTAINING
DETAILED DESCRIPTION OF SERVICES RENDERED

Through Motion filed on June 18, 2004, the Receiver of Sentinel Trust Company has requested that in relation to reporting fee information to the Court 1) the detailed invoices relating to fees of herself, outside counsel and third party litigation support contractors be filed under seal, and 2) summaries of such fees be filed publicly. This Motion was heard on June 30, 2004. The Court is persuaded the Motion has merit and the relief requested should be granted.

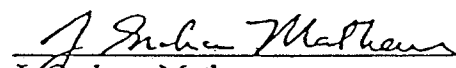
Accordingly, the instant Motion is granted and the Court hereby ORDERS the following:

- a) Public filing regarding fees of the Receiver, outside counsel and third party litigation support contractors shall be limited to summaries of such information -- i.e., name of recipient, time over which services were rendered and amount billed, and
- b) Filing of the detailed invoices of services of the Receiver, outside counsel and third party litigation support contractors shall be UNDER SEAL and are to be free from public dissemination, distribution and circulation.

It is so ORDERED, this the 30 day of June, 2004


Chancellor

Submitted and Approved for Entry:


J. Graham Matherne
Wyatt, Tarrant & Combs
2525 West End Avenue, Suite 1500
Nashville, TN 37203-1423
(615) 244-0020

Counsel for Jeanne Barnes Bryant and
Receivership Management, Inc.
Receiver of Sentinel Trust Company

CERTIFICATE OF SERVICE

This is to certify that on June 18, 2004 a copy of the foregoing Notice has been sent by First Class U.S., postage paid, and/or by facsimile transmission to:

Danny Bates
205 Bastin Road
Hohenwald, TN 38462

Bradley S. Lancaster
8448 Indian Hills Drive
Nashville, TN 37221

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Clifton T. Bates
312 Bastin Road
Hohenwald, TN 38462



Graham Matherne